

New Mexico Army National Guard Leader's Handbook



Office of the Inspector General New

Mexico National Guard

15 August 2010

PREFACE

“The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help them or concluded that you do not care. Either case is a failure of leadership.”

This handbook can be used as an effective and informative tool to assist leaders concerning day-to-day soldier issues.

When using this handbook, keep in mind that it does not supersede or replace any Army or State regulation. Leaders should know that this guide is not designed to be an “off-the-shelf,” one-size-fits-all,” cookbook. Rather, it is a starting point and all of these potential actions encompassed in the guide are fact driven. Each situation is unique and specific facts will determine the right process or procedure to follow in that situation. The most important factor in resolving any issue is the Leader’s judgment. No matter what the contemplated action is, the Leader must eye-ball a situation and decide what is the right thing to do, then bring all of his/her maturity, experience, and background into play.

As of the publication date, the information in this handbook is current. However, regulations are subject to change. Before taking any final action, Leaders must refer to the appropriate regulation.

The Inspector General Staff

A copy of this book can be downloaded at <https://www.nm.ngb.army.mil/IG/links.html>

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Absence With Out Leave / Unexcused Absences

References:

- a. AR 135-91, Service Obligations, Methods of Fulfillment, Participation Requirements and Enforcement Procedures, 1 February 2005.
- b. NGR (AR) 350-1, Army National Guard Training, 3 June 1991.
- c. NGR 601-1, Army National Guard Strength Maintenance Program, 28 April 2006
- d. NGR (AR) 680-1, Personnel Assets Attendance and Accounting, 29 December 1989.
- e. Section 20-12-21 NMSA 1978 and Section 20-12-12 NMSA 1978.
- f. Procedures Dealing with Soldier with Unexcused Absences and/or Classified as Unsatisfactory Participants (NGB-ARH Policy Memo 05-047), dated 8 July 2005.

SME: SJA; G-1, HRO

Army National Guard Responsibilities. Commanders monitor methods of fulfilling the Reserve of the Army service obligations and participation requirements. Unit commanders have administrative control of Soldiers under their command; they provide information and direction to Soldiers concerning methods of fulfilling the Reserve obligation and consequences of unsatisfactory participation. Soldiers are responsible for acknowledging and understanding the terms of his or her Reserve participation agreement.

a. Unexcused Absences for Inactive Duty Training (IDT). Commanders will notify Soldier using a letter of instruction (AR 135-91, Figure 4-1) and will be delivered either in person or U.S. mail. If U.S. mail is used, the first notification commencing with the fourth absence will be sent certified mail/return receipt; this is required. Remaining notifications will be sent by first class mail.

(1) Nine or more unexcused absences from scheduled inactive duty training may result in administrative separation of a subject soldier, IAW AR 135-91, para 4-12(b)(1), and IAW AR 135-178, para 13-1(a)(1).

(2) Unit soldiers who are required to perform 48 Unit Training Assemblies (UTA) per year will be notified commencing with the fourth unexcused absence in a 12-month period and after each succeeding unexcused absence.

(3) Whether notices are delivered in person or U.S. mail, a copy of each notice will be placed in the Soldier's MPRJ.

(4) Mail refused, unclaimed, or otherwise not delivered may not be used as defense against unexcused absences when notices were correctly addressed to the last known MPRJ.

b. Unexcused absence from Annual Training (AT). Soldiers are unsatisfactory participants if, without proper authority, they fail to attend or complete the entire period of active duty.

(1) Commanders will determine if the Soldier was notified in enough time to comply with orders; was aware of the training termination date; whether there were any compelling or emergency reasons for being absent from required duty.

(2) Disciplinary action if administered consistent with law and regulation.

(3) A Soldier present on the reporting and ending dates of AT orders who was AWOL for 1 or more days during the active duty period may be:

(a) Declared an unsatisfactory participant and subject to reassignment/ transfer to the IRR.

(b) Retained on active duty for punitive action under paragraph 10, Manual for Courts Martial/State Code.

(c) Administered non-judicial punishment per UCMJ, Article 15. The punishment imposed shall be limited to a reduction of one grade or a suspended reduction of one grade, as per Section 20-11-11 (B) (3) NMSA 1978.

(d) Corrective action proportionate to the improper behavior.

c. Absence With Out Leave; Confinement During Period of Duty. The New Mexico State UCMJ, Section 20-12-12 NMSA 1978, authorizes confinement of military personnel who fail to report for unit training assemblies, drill or annual training. However, no such confinement or use of civil law enforcement authorities to effect such confinement is authorized without Judge Advocate and Chief of Staff express approval beforehand.

d. Absence With Out leave (AWOL) Abatement. Commanders will establish a process to follow up on Soldiers in AWOL status; this is developed as part of the unit comprehensive strength maintenance program.

Administrative Separations

References:

- a. AR 635-200, Active Duty Enlisted Administrative Separations, 6 June 2005.
- b. Implementation Policy NGR 600-200 Enlisted Personnel Management, 1 October 2006.
- c. AR 135-178, Army National Guard and Army Reserve Enlisted Administrative Separations, 13 March 2007.
- d. AR 135-175, Army National Guard and Army Reserve Separation of Officers, 28 February 1987.
- e. AR 600-8-24, Officer Transfers and Discharges, Chapter 5, 12 April 2006.
- f. National Guard Regulation 635-100, Personnel Separations, Termination of Appointment and Withdrawal of Federal Recognition, 8 September 1978.
- g. DoD Instruction # 1332.40, 16 September 1997.
- h. NGR 600-5, The Active Guard/Reserve (AGR) Program Title 32, Full-Time National Guard Duty (FTNGD), 20 February 1990.
- i. AR 135-18, The Active Guard Reserve (AGR) Program, 1 November 2004.
- j. Guidance for Title 32 (T32) Full-Time National Guard Duty Operational Support (FTNGDOS) Programs and the T32 Full Time National Guard Duty Counterdrug (FTNGDCD) Program (NGB-ARH Policy Memo #06-023, dated 21 April 2006.

SME: Staff Judge Advocate (SJA), AGR Manager, G-1

General Information. There are multiple reasons for commanders to properly administratively separate Soldiers. Each has its own set of rules and procedures. For example, in separations involving misconduct (Chapter 14, AR 635-200) or unsatisfactory performance (Chapter 13, AR 635-200), you must provide a rehabilitative transfer unless waived by the separation authority. Some separation actions require the use of the notification procedure in AR 635-200, Chapter 2 (Active Component) and AR 135-178, Chapter 3 (ARNG, USAR). These chapters explain the Soldier's rights in the proceeding and are part of the due process procedure. A commander's failure to administer chapter actions according to regulation can result in the action being overturned on legal review or appeal. In brief, Soldiers who do not conform to required standards of conduct and performance and Soldiers who do not demonstrate potential for further military service should be separated to avoid the high costs of continued service in terms of pay, administrative efforts, degradation of morale, and substandard mission performance.

Commander's Responsibilities.

The first step a commander must make in any separation proceeding is to determine the status of the Soldier and to determine which component he or she belongs. It is possible with the current GWOT Operations to have Active Army and National Guard Soldiers, on different pay statuses, all under one command or task force. The regulations, authorities and policies listed in this chapter contain the details and examples for processing the various separations documents based upon the military status of the servicemember. In general, commanders must:

- a. Become thoroughly familiar with the regulations governing the types of separation action desired.
- b. Consult with your servicing SJA and HRO before initiating any separation action.
- c. Ensure that reasonable efforts towards rehabilitation have been exhausted before initiating separation proceedings.
- d. Ensure that adequate counseling has been accomplished in writing.

When a Soldier's conduct or performance approaches the point where continuation of such conduct or performance would warrant initiation of separation action, he or she will be counseled by a responsible person about his or her deficiencies at least once before initiating separation action.

- a. This counseling will be comprehensive and will include at least the following:
 - (1) Reason for counseling.
 - (2) That separation action may be initiated if the behavior continues.
 - (3) The character of the discharge that could result from the possible separation action and the effect of each type.
- b. Each counseling session required by this paragraph must be recorded in writing using DA Form 4856 (Developmental Counseling Form).

There are three policies summarized in this chapter: **Active Duty Soldiers, National Guard Soldiers, and Active Guard Reserve (AGR) soldiers**. Commanders must read all three sections in order to fully understand the spirit of administrative separations proceedings. Refer to the regulations listed in each section for specific guidance on separation processes.

Section 1 Active Duty Soldiers

(Includes Active Army, Army National Guard of the United States and United States Army Reserve Soldiers serving on active duty under Title 10 of the United States Code, which

includes active duty for training, full-time active duty in the Active Guard Reserve Program , active duty for special work (ADSW), temporary tours of active duty (TTAD), and order-to-active-duty for contingency operations).

a. Commanders will refer to AR 635-200 for Administrative Separation procedures for Active Component (Regular Army) and ARNG/ARNGUS Soldiers on Active Duty (Title 10).

b. Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers, who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Effective leadership is particularly important in the case of Soldiers serving their initial enlistments. Except as otherwise indicated in AR 635-200, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings.

c. When a Soldier's conduct or performance becomes unacceptable, the commander will ensure that a responsible official formally notifies the Soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings may be initiated. In addition, there must be evidence that the Soldier's deficiencies continued after the initial formal counseling.

d. This counseling will be comprehensive and IAW AR 635-200, Chapter 17 and will include the reason(s) it is being administered, the date, the fact that separation proceedings may be initiated if the deficiencies continue, other guidance as appropriate, and the type of discharge that could result from the possible separation action and the effect of each type.

e. Each counseling session required by this paragraph **must** be recorded in writing using DA Form 4856, General Counseling Form.

Section 2

National Guard Soldiers (Includes MDAY, FTNGSW, AT, SAD, ADSW on Title 32 Status).

The policies, standards and procedures for the separation of enlisted soldiers from the Army National Guard and the Army National Guard of the United States are outlined in Chapter 8 of the Implementation Policy NGR 600-200 and AR135-178.

a. For Separations/Discharges from State ARNG and/or Reserve of the Army refer to Chapter 8-35 of NGR 600-200 and chapters 4 through 16 of AR 135-178. Examples of discharges from these references include:

- (1) Expiration of the current Term of Service (ETS).
- (2) Reduction in strength.
- (3) Separations for the convenience of the Government.

- (4) Erroneous and Defective enlistments/re-enlistments.
- (5) Conscientious Objection.
- (6) Unsatisfactory Performance.
- (7) Homosexual Conduct.
- (8) Discharge for alcohol or other substance abuse.
- (9) Certain misconduct under UCMJ, State Military Code and other laws.
- (10) Unsatisfactory Participation.
- (11) Secretarial Plenary Authority (separations approved only by the Secretary of the Army).
- (12) Separation for failure to meet Army body composition standards.
- (13) Separation for those Soldiers not selected for retention by a qualitative retention board per AR 135-205.
- (14) Refer to NGR 600-200 and chapters 4 through 16 of AR 135-178 for complete separation procedures.

b. For Separations from the State ARNG not listed in Chapter 8-35, refer to chapter 8-36 of NGR 600-200. All involuntary administrative separations require commanders to notify Soldiers concerning intent to initiate separation procedures. All Soldiers being involuntarily separated will be afforded a reasonable opportunity to provide a written response for consideration by the separation authority. Some examples include:

- (1) Unit reorganization.
- (2) Incompatible occupation/employment conflict.
- (3) Failure to report for active duty when ordered.
- (4) Failure to report to the gaining state upon interstate transfer.
- (5) Failure to report for annual Inactive National Guard (ING) musters.
- (6) Discharge and transfer to the Retired Reserve.
- (7) Failure to obtain required physical.
- (8) Refer to chapter 8-36 of NGR 600-200 for complete separation procedures.

c. Commissioned officers in the Army National Guard have unique separation requirements and guidelines that are not covered under NGR 600-200 and AR 135-178. For ARNG officer separations, refer to the following four authorities:

- (1) AR 135-175, Army National Guard and Army Reserve Separation of Officers.
- (2) AR 600-8-24, Officer Transfers and Discharges.
- (3) NGR 635-100, Personnel Separations covering the Termination and Withdrawal of Federal Recognition.
- (4) DoD 1332.40, Separation Procedures for Regular and Reserve Commissioned Officers

d. For T32 ADSW duty soldiers in an Operational Support Status, or T32 Full-Time National Guard Counterdrug soldiers, the separation policies and procedures of “Guidance for Title 32 (T32) Full-Time National Guard Duty Operational Support (FTNGDOS) Programs and the T32 Full-Time National Guard Duty Counterdrug (FTNGDCD) Program (NGB-ARH Policy Memo #06-023), dated 21 April 2006,” are specifically observed.

Section 3

AGR Soldiers (National Guard)

(See Chapter 5, AR 135-18)

Separation policy

a. Separation from the AGR Program, as prescribed by this regulation, is an all inclusive term which is applied to personnel actions resulting in REFRAD, discharge, retirement, dropped from the rolls (DFR), release from military control, death, or transfer/reassignment to the Individual Ready Reserve (IRR).

b. All separations, voluntary or involuntary, from the AGR program will be governed by the following regulations:

(1) ARNGUS soldiers, released from FTNGD, while serving in the AGR program under the provisions (UP) of 32 USC are subject to separation UP of AR 135–175 (officers) or AR 135–178 (enlisted), or as further provided UP NGR.

(2) ARNGUS soldiers released from AD, while serving in the AGR program UP of 10 USC are subject to separation UP of AR 600–8–24 (officers) or AR 635–200 (enlisted), or as further provided UP NGR 600–10.

c. ARNGUS AGR soldiers will be reported to the appropriate State Adjutant General on REFRAD from AGR status.

Retirement service

Service in an AGR status (either AD or FTNGD) is creditable as qualifying service for both active service (10 USC sections 1293, 3911, or 3914) and non-regular service retirement (10 USC Section 12731).

Army Board for Correction of Military Records (ABCMR)

Reference: AR 15-185, Army Board for Correction of Military Records, 31 March 2006.

SME: Staff Judge Advocate or Inspector General

ABCMR Functions:

The Army Board for Correction of Military Records is the highest administrative board in the Army. The purpose of the Board is to correct errors and remove injustices from any military record. Examples of military records that the Board may review include: Awards, Separations, Retirements, Disabilities, Evaluation Reports, Pay and Allowances, and Survivor Benefit Plans. Prior to applying to the ABCMR, all other administrative remedies must be exhausted. This includes applying to other Army Boards such as the Army Physical Disability Appeal Board or the Army Discharge Review Board. Applying to the ABCMR does not affect other proceedings.

Who May Apply:

The ABCMR's jurisdiction under 10 U.S.C. 1552 extends to any military record of the DA. It is the nature of the record and the status of the applicant that define the ABCMR's jurisdiction.

Persons eligible to apply for corrections are Active Duty soldiers and former members of the Regular Army, U.S. Army Reserve, and in certain cases, the Army National Guard and other military and civilian individuals affected by an Army military record. Requests are personal to the applicant and relate to military records. Requests are submitted on DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552). Soldiers do not need to submit applications through their chain of command.

An applicant with a proper interest may request correction of another person's military records when that person is incapable of acting on his or her own behalf, missing, or deceased.

Time Limits: Applicants must file an application within 3 years after an alleged error or injustice is discovered or reasonably should have been discovered. All references and application forms are available from the Army Review Board Agency's web site at <http://arba.army.pentagon.mil>; or by sending a request to: Army Review Boards Agency, 1901 South Bell Street, 2nd Floor, Arlington, Virginia 22202-4508. Telephonic assistance is available at 1-703-607-1600.

EXAMPLE: *You believe that the characterization of your military discharge is unjust or improper.*

Question: Can the ABCMR change your discharge?

Answer: Yes, the ABCMR may review any discharge and give a proper discharge in its place. However, the ABCMR does not return soldiers to active duty.

Question: Can I receive compensation (damages) from the ABCMR based on a substantiated injustice I suffered?

Answer: No. Monetary settlement occurs only as a result of correcting the military record. Claims against the Government must be presented through the appropriate Federal civil court system.

Question: I have a mandatory separation date approaching. Can the ABCMR suspend this action while my application is under review?

Answer: No. While every effort will be made to process an application involving a retirement/separation, the fact that an application has been submitted does not provide a basis to suspend the action. However, it is your responsibility to ensure the ABCMR is aware of a pending retirement/separation date.

Army Substance Abuse Program

References:

- a. AR 600-85, Army Substance Abuse Program, dated 2 December 2009;
- b. NGR (AR) 600-85, Drug Abuse Prevention and Control;
- c. AR 135-175, Army National Guard and Army Reserve Separation of Officers;
- d. AR 135-178, Army National Guard and Army Reserve Enlisted Administrative Separations, “NMDMA Policy Number 2005-09, Personnel Policy Guideline – The Adjutant General’s Policy Concerning Positive Urinalysis Results and Retention Criteria for First Term Enlistees in the Rank of E-1 to E-4, dated 9 June 2005;”
- e. “NMDMA Policy Guidance – The Adjutant General’s Substance Abuse Policy, dated 14 April 2004,” and
- f. “The Adjutant Generals General Order Number 1, Policy on Driving While Intoxicated (DWI) or Driving Under the Influence of Alcohol and/or Drugs (DUI),” dated July 2010.

SME: Joint Substance Abuse Program Officer (JSAPO), SJA , G-1

Phone: (505) 271-7102 COMM 867-9102 DSN

Department of the Army Policy.

- a. All ARNG Soldiers, who are identified as drug abusers, without exception, will—
 - (1) Be processed for administrative separation IAW AR 135-175 (for officers) and AR 135-178 (for enlisted) with the exception of “Limited Use” self-referrals (see AR 600-85). Commanders are to note in particular, if applicable, “The Adjutant Generals General Order Number 1, Policy on Driving While Intoxicated (DWI) or Driving Under the Influence of Alcohol and/or Drugs (DUI),” and “NMDMA Policy Guidance – The Adjutant General’s Substance Abuse Policy, dated 14 April 2004.”
 - (2) Be considered for administrative disciplinary action, as appropriate. Can only be considered for disciplinary action under the Uniform Code of Military Justice (UCMJ) or State Military Code as appropriate if on Active Duty (AD), Title 10 or Title 32 Active Guard and Reserve (AGR), Full Time National Guard Special Work (FTNGSW), Active Duty Special Work (ADSW), or State Active Duty (SAD). Seek Staff Judge Advocate (SJA) Legal counsel for assistance in processing.
 - (3) Be referred to a State Certified Rehabilitation Counseling Center for screening within 30 days. Contact State JSAPC for resources, or visit this website:
<http://findtreatment.samhsa.gov/>

- b. Discharge for misconduct will be initiated and processed to the separation authority.

Commander's Responsibilities:

- a. Appoint an officer or noncommissioned officer (E-5 or above) as the unit prevention leader (UPL), who must be certified through the required UPL training addressed in AR 600-85, taught by the NMARNG JSAPC. Recommend a national background check be accomplished on all UPL candidates as a position qualification requirement.
- b. Implement a unit biochemical-testing program IAW AR 600-85, Chapter 8.
- c. Implement ASAP prevention and education initiatives addressed in AR 600-85. All soldiers will receive a minimum of four hours of alcohol and other drug awareness training per year of which one hour must be Team Readiness Prevention Training (TRPT).
- d. Ensure all newly assigned soldiers are briefed on ASAP policies and services.
- e. Immediately report all offenses involving illegal possession, use, sale, or trafficking in drugs or drug paraphernalia to the JSAPC, SJA, Provost Marshal and or Criminal Investigation Division (CID) for investigation or referral to local law enforcement, as appropriate.
- f. Randomly select and test 10% of their assigned Soldiers each month or 25% quarterly. Unit sweeps can be used to supplement random testing, but not a substitute.
- g. Each unit will test all its personnel in the following categories in addition to the random process: military police, aviators, aviation maintenance personnel, counterdrug personnel, and personnel who routinely carry a weapon.
- h. Active Guard Reserve (AGR) personnel are required to test at a rate equal to 100% of available end-strength.
- i. POC for drug testing processing and procedures is the Joint Substance Abuse Program Office.

Situation #1: A Soldier's job performance is well below par and they used to be an excellent Soldier. Co-workers say this Soldier is smoking marijuana frequently.

Question: I have a Soldier in my unit I suspect of drug use. I would like to determine if he is using drugs, but do not want to disrupt the unit by conducting a unit urinalysis? What are my options?

Answer: IAW AR 600-85, when commanders suspect drug use by a Soldier due to observation, suspicion, or a negative change in job performance, social conduct, interpersonal relations, physical fitness or health they will:

(1) Coordinate with JSAPC or command SJA legal advisor about whether the commander, his designated representative or law enforcement should conduct the initial interview for suspected alcohol or drug abuse.

(2) When the unit commander believes the Limited Use Policy applies, the unit commander should consult with the JSAPC and supporting command SJA legal advisor. The unit commander may then explain the Limited Use Policy (self-referral), if applicable to the particular circumstances.

Situation #2: A commander realizes that he is required to conduct urinalysis testing on 100 percent of his unit's assigned personnel in a fiscal year. DOD 1010.1, paragraph D.2.b. states that the minimum rate of urinalysis testing be one random sample per active duty member each year. However, he is unsure how to conduct urinalysis testing within his unit to discourage illegal drug use and to not tip off Soldiers.

Question: How should I conduct urinalysis testing to deter illegal drug use and not tip off soldiers while meeting the DOD 1010.1 requirement?

Answer: Utilize discretionary smart testing. A good urinalysis testing practice is to test about 10 percent of the unit's strength monthly and conduct a 100 percent urinalysis once per year. Frequent testing is a good deterrent and 100 percent urinalysis testing once per year ensures the DOD 1010.1 requirement is met.

Situation #3: A commander conducts a 10 or 100% urinalysis test during an Inactive Duty Training (IDT) drill weekend and a Soldier tests positive.

Question: If a traditional M-day National Guard Soldier tests positive for an illegal substance during an IDT drill weekend, can the commander initiate disciplinary action under UCMJ or the Military Code?

Answer: Generally no, but must process the Soldier for administrative separation and may consider taking administrative disciplinary action to include but not limited to counseling, letter of reprimand, and or bar to reenlistment. Always consult guidance from the supporting command SJA legal advisor and or JSAPC before taking action.

NOTE: *Positive urinalysis tests for all substances other than cocaine (BZE) and marijuana (THC) must be reviewed by the appointed medical review officer. Consult with the JSAPC before beginning adverse action against the Soldier.*

Awards

References:

- a. AR 600-8-22, Military Awards, 25 February 1995.
- b. AR 600-8-2, Suspension of Favorable Personnel Actions (Flags), 23 December 2004.

SME: G-1

Department of the Army and Army National Guard Policy.

- a. The Department of the Army and National Guard Awards Program provides a means of tangible public recognition for acts of valor, achievement, and meritorious service rendered to the Army or the State of New Mexico.
- b. It is the responsibility of any individual having personal knowledge of an act, achievement, or service believed to warrant the award of a decoration, to submit a formal recommendation into military command channels for consideration. A Soldier may not recommend himself/herself for award of a decoration.
- c. Each recommendation must be entered administratively into military channels within two years of the act, achievement, or service to be honored, except as indicated in AR 600-8-22, paragraphs 1-14a, b, c, d, or e.
- d. A medal will not be awarded or presented to any individual whose entire service subsequent to the time of the distinguished act, achievement, or service has not been honorable.
- e. Soldiers under suspension of favorable personnel actions (Flags) are not eligible to receive an award during the period of the suspension. However, as an exception, a Soldier who is flagged for overweight may be recommended for and presented an award based on valor, heroism, or for length of service retirement.

General Information.

- a. Once an award recommendation is submitted, it must be forwarded to the approval/disapproval authority. The chain of command can only recommend approval/disapproval and **must** forward the recommendation to the approval/disapproval authority. The chain of command cannot refuse to process an award recommendation or throw it out for any reason.
- b. If the award recommendation, DA Form 638-1, Recommendation for Award (For Other Than Valor)) of Army Achievement Medal (AAM), Army Commendation Medal (ARCOM), and Meritorious Service Medal (MSM), is disapproved, the original DA Form 638-1 is returned

through the Bde to the recommender, with memorandum attached, explaining the reason for the disapproval. A copy of the DA form 638-1 and memorandum are placed in the state's file of disapproved awards, but not filed in the OMPF. An award recommended for downgrading is returned to the recommender, through the Bde with memorandum attached explaining the reason for the downgrade. The recommender should redo the DA form 638-1 and resubmit it through the chain-of-command, Bde and then forward to the JFHQ. AAMs and ARCOMs are approved, and awarded at the Bde level. All state awards must be submitted to JFHQ through their respective Bdes. Copies of Bde level awards are sent to G-1 for filing on OMPF.

c. Recommendations for awards must be based on specific achievements.

d. Awards for meritorious achievement or service will not be based upon the grade of the intended recipient. The predominant factor will be the degree to which an individual's achievement or service enhanced the readiness or effectiveness of his or her organization.

e. No individual is automatically entitled to an award upon departure from an assignment. Consideration should also be given to certificates, coins, or other signs of gratitude when a military award is not appropriate.

f. No preconditions for an award may be established nor will they be used as prizes in contests.

g. Limiting awards to a specific number per unit (quotas) is not authorized.

BAR TO REENLISTMENT

References:

a. NGR (AR) 600-200, Army National Guard Enlisted Personnel Management, 1 October 2006, Chapter 7, Section 5., and Paragraph 8-4 (This regulation will remain in effect until publication of the new AR 601-280 is applicable to the Army National Guard).

b. AR 135-178

d. AR 601-280, Total Army Retention Program, 31 January 2006.

e. AR 600-8-2, Suspension of Favorable Personnel Actions (Flags).

SME: G-1

General Information.

a. There are prescribed policies and procedures to deny reenlistment/immediate reenlistment extensions, and the future entrance into the NMARNG of substandard Soldiers whose immediate discharge under administrative procedures is not warranted.

b. Service beyond ETS without appropriate improvement is not in the best interest of the NMARNG. Soldiers may not be reenlisted, immediately reenlisted or extended without the recommendation of the unit commander. If a Soldier is not recommended for continued service, a BAR will be initiated under the provisions of this chapter unless the Soldier possesses a disqualification that can be waived.

National Guard Policy.

a. Only Soldiers of high moral character, personal competence, and demonstrated adaptability to the requirements of the professional Soldier's moral code may be reenlisted, immediately reenlisted or extended. Soldiers who cannot or will not measure up to such standards, but whose discharge under proper administrative procedures is not now warranted, will have a BAR from further service under the provisions of this chapter. Even though a BAR has been initiated, a Soldier can still be administratively discharged if it is warranted.

b. The BAR is a non-punitive probationary device intended to serve notice that a Soldier is not a candidate for reenlistment, immediate reenlistment or extension and may be discharged if the circumstances that led to the bar are not overcome.

Guidelines for use of a BAR.

a. BAR procedures will not be used instead of discharge actions under this regulation.

- b. A BAR will not be initiated solely because a Soldier refuses to reenlist, immediately reenlist or extend.
- c. A BAR will not be used instead of trial by courts-martial, non-judicial punishment, or other administrative action.
- d. Disciplinary and administrative actions that do not result in discharge do not prevent initiation or continuation of a BAR.
- e. The fact that a Soldier may be issued an honorable or general discharge for the current period of service does not prevent initiation of a BAR to deny the Soldier later service in the NMARNG.
- f. Honorable service for a number of years is considered in the evaluation of the Soldier's service. However, it does not prohibit the initiation of a BAR if appropriate.

Commanders Responsibility.

- a. Commanders must evaluate the advisability and desirability of affording continued military service to Soldiers of the following or similar categories.

(1) Untrainable Soldiers. These Soldiers will be identified as soon as possible with a view toward eliminating them from service. When discharge under administrative procedures is not warranted, action will be taken under this chapter to bar the Soldier from further service with the ARNGUS.

(2). Unsuitable Soldiers. These Soldiers will be identified early in their military service with a view toward elimination from the service. When administrative discharge is not warranted, action will be taken under this chapter to bar the Soldier from further service with the ARNGUS.

(3) Single Soldiers/In-service couples with dependent family members. (AR 600-20, paragraph 5-5(11)).

- b. Commanders will initiate a bar to reenlistment or discharge proceedings (per NGR 600-200) against Soldiers who:

(1) Do not make satisfactory progress after a six-month period on the weight control program and have no medical reason to cause the condition.

(2) Fail two consecutive APFTs.

(3) Are removed for cause from NCOES courses.

(4) Meet other criteria as defined in NGR 600-200, paragraph 7-22c.

- c. Review (evaluate) bars to reenlistment. Once approved, commanders will review bars at

least once every 3 months after the date of approval, and 30 days before the Soldier's scheduled departure from the unit or separation from the service (see DA Pam 600-8).

(1) Upon review, if the commander feels the bar should remain in effect, he or she will inform the custodian of the Soldier's personnel records who will enter the remark, "Bar to reenlistment reviewed; not recommended for removal (date)" on the Soldier's DA Form 2-1.

(2) Counsel the Soldier, using DA Form 4856 (Developmental Counseling Form), and inform him or her that the bar will remain in effect unless recommended for removal.

(3) Inform the Soldier that he or she may request voluntary discharge. Inform the Soldier that discharge proceedings will be started if the bar is not removed upon completion of the second 3 month review unless a recommendation for removal is submitted and approved by proper authority.

(4) The Soldier should be considered for discharge any time the removal of the bar isn't recommended. If the Soldier does not demonstrate progress, the commander should consider discharge without waiting for the next review to occur.

d. Separation. Unless a recommendation for removal is submitted, commanders will start discharge action upon completion of the second three month review period.

Procedures for processing a BAR.

a. Any commander in a Soldier's chain of command may prepare NGB Form 602-R (BAR to Reenlistment/Immediate Reenlistment or Extension Certificate), summarizing the basis for the action.

(1) A BAR normally should NOT be initiated against a Soldier assigned to a unit for less than 90 days.

(2) A BAR must be based on specific dates, places, times which can all be substantiated with backup documents.

(3) Normally, a BAR will NOT be initiated against a Soldier during the last 90 days prior to ETS.

(4) A BAR is initiated without regard to a Soldier's ETS date (unless at ETS Soldier will have at least 18 but less than 20 qualifying years; see Paragraph 7- 23c (3) below).

(5) BARS should not be processed for Soldiers pending involuntary administrative separation for which RE code 3 or 4 would be issued (see Paragraph 7-21b (3)).

b. NGB Form 602-R BAR will be prepared in original and two copies. Additional copies may be prepared when required by the State AG.

c. Upon receipt of the comment of the Soldier, or the Soldier's refusal to comment, the certificate will be endorsed personally by each commander in the chain of command, and approved or disapproved by the appropriate authorities as shown in (1), (2) or (3) below.

(1) For Soldiers with less than 10 years of qualifying service for retired pay at ETS, the approval/disapproval authority is the first commander, LTC or above, in the Soldier's normal chain of command. No delegation of authority is authorized.

(2) For Soldiers with at least 10 but less than 18 years of qualifying service for retired pay at ETS, those with more than 20 years of service at ETS, and those when action is taken to extend the Soldier to complete 20 years of service, the approval/disapproval authority is the first commander, COL or above, in the Soldier's normal chain of command. No delegation of authority is authorized.

(3) Soldiers, who upon ETS, will have at least 18 but less than 20 years of qualifying service, will be allowed to extend to the point where they could attain 20 years. They may, after the extension is executed, be barred. The approval/disapproval authority for this bar is the State AG. These Soldiers may be processed for separation before they attain 20 years of service but will not be separated before that point without approval of Chief, NGB.

d. When the BAR has been approved, the Soldier's unit commander will use a counseling statement to inform the Soldier of the right of appeal within 15 days.

e. When NGB Form 602-R BAR has been approved by the appropriate authority, the custodian of the Soldier's personnel records will:

(1) Place original in the Soldier's MPRJ as a permanent document.

(2) Enter the remark "Not recommended for further service" in item 4 of the Soldier's DA Form 2-1 (Personnel Qualification Record (Part II)).

(3) Give the Soldier a copy.

f. An entry "Not recommended for further service" will be made on DA Form 1315 (Retention Data Card) or a localized approved substitute.

g. Processing for separation will be initiated after the first review for Soldiers who receive a locally imposed BAR to reenlistment after the second failure of the APFT. Soldiers who receive a locally imposed BAR after the first APFT failure will be processed for separation after the second review.

Removing a BAR.

a. A recommendation to remove a BAR may be submitted at any time by the Soldier's unit commander, if the Soldier has proven worthy of retention in the NMARNG.

(1) Recommendations to remove a BAR will be submitted in writing through the chain of command and will be endorsed personally by each commander.

(2) Approval to remove a BAR may be granted by the same authority that approved the BAR originally or, if the Soldier has moved to another jurisdiction, by a comparable commander in that jurisdiction.

(3) The approved recommendation removing the BAR will be maintained in the appropriate unit file. NGB Form 602-R BAR will be removed and destroyed. The remark "Not recommended for further service," and an entry pertaining to "Bar to immediate reenlistment review; not recommended for removal (date)," will be deleted from DA Form 2-1, in accordance with AR 600-8-104 and NGR (AR) 600-8-104. The same remarks on the DA Form 1315 will be erased. The Soldier concerned will be given a copy of the approved recommendation removing the BAR.

Discharge

NGB Form 22 (Report of Separation and Record of Service) of otherwise qualified Soldiers, who are discharged with a BAR in effect, will be annotated "Bar to Reenlistment or Extension (dated) in effect on the date of discharge' in the remarks section, block 18. Block 26, Reenlistment Eligibility, will be coded RE Code 3.

CSDP Command Supply Discipline Program

REFERENCES:

- a. AR 11–1, Command Logistics Review Program
- b. AR 710-2, AR 710–2 Supply Policy below the National Level
- c. AR 735-5, Policies and Procedures for Property Accountability
- d. AR 190-11, Physical Security of Arms, Ammunition and Explosives
- e. AGONM 710-2 NMARNG Command Supply Discipline Program Procedures

SME: G-4

General Information:

a. The CSDP is a commander's program. Commanders will implement the CSDP by using their existing resources. Examples of existing resources are—Command Logistics Review Program (AR 11–1), Command Inspection Program, Internal Review Office, staff personnel, and so on. Whichever activity the commander designates to assist with implementing the CSDP, that designated activity will then incorporate CSDP policy in its evaluation plans and procedures. Also, all existing supply evaluation programs will absorb the CSDP. Additionally, local IGs can be used at the commander's discretion to conduct special inspections using the systemic methodology for determining root causes for problems identified through the CSDP. Therefore, commanders should not establish new evaluation teams because of the CSDP.

b. *CSDP*. A four-fold program addressing the following:

(1) Responsibilities of commanders and supervisory personnel to instill supply discipline in their operations.

(2) Guidance for evaluating supply discipline.

(3) Feedback through command and technical channels for improving supply policy and for improving procedures to monitor supply discipline.

(4) Follow- up to ensure supply discipline is maintained.

National Guard Policy:

- a. Follow the provisions of AR 710-2, Appendix B

New Mexico National Guard Policy:

a. The Command Supply Discipline Program (CSDP) within NMARNG is an ongoing requirement. The standards of which are enforceable at any time. CSDP is composed of regulatory requirements, which form the basis of a methodical and consistent approach to the management and accounting for Army assets.

b. CSDP has a secondary benefit in that it can be used as a tool to train Unit Supply Personnel, as they receive evaluations and subsequently must correct the findings. CSDP evaluators do a disservice to new unit supply Personnel, who are not evaluated up to standard. The primary underlying rationale for CSDP is to have consistent performance by all supply personnel. CSDP should be approached as a structured program that enhances logistical success. Other goals of CSDP would include elimination of fraud, waste, & abuse; standardization of requirements; and command involvement in improved supply discipline.

Commander's Responsibility:

a. The Commander of each Major Subordinate Command will appoint in writing a CSDP Monitor, to oversee the Command Supply Discipline Program.

b. Battalion Commanders will appoint in writing a CSDP Monitor to oversee his/her Command Supply Discipline Program.

c. Company Commanders are primarily expected to utilize the CSDP to police their own operations. The most effective means of ensuring supply discipline is to have an internally self-administered program practiced on a routine basis.

Corrective Training

References: AR 600-20, Army Command Policy, 18 March 2008.

SME: Commanders and CSMs

Department of the Army Policy.

a. Military discipline is founded upon self-discipline, respect for properly constituted authority, and the embracing of the professional Army ethic with its supporting individual values. Military discipline will be developed by individual and group training to create a mental attitude resulting in proper conduct and prompt obedience to lawful military authority. Military authority is exercised with promptness, firmness, courtesy, and justice.

b. While military discipline is the result of effective training, it is affected by every feature of military life. It is manifested in individuals and units by cohesion, bonding, and a spirit of teamwork; by smartness of appearance and action; by cleanliness and maintenance of dress, equipment and quarters; by deference to seniors and mutual respect between senior and subordinate personnel; by the prompt and willing execution of both the letter and the spirit of the legal orders of their lawful commanders; and by fairness, justice and equity for all Soldiers, regardless of race, religion, color, gender or national origin.

c. Military authority is exercised promptly, firmly, courteously and fairly. Commanders should consider administrative corrective measures before deciding to impose non-judicial punishment. Trial by court-martial is inappropriate for minor offenses unless lesser forms of administering discipline would be ineffective (see MCM, Part V, AR 27-10, Chapter 3).

d. One of the most effective non-punitive, corrective measures is extra training or modification of behavior instruction (including on-the-spot correction).

Example: If soldiers appear in an improper uniform, they are required to correct it immediately; if they do not maintain the housing area properly, they must correct the deficiency in a timely manner. If soldiers have training deficiencies, they will be required to take extra training or instruction in subjects directly related to the shortcoming.

(1) The training, instructions, or correction given to a Soldier to correct deficiencies must be **directly related** to the deficiency. It must be oriented to improving the Soldier's performance in his or her problem area. Corrective measures may be taken after normal duty hours. Such measures assume the nature of training or instruction, not punishment. Corrective training should continue only until the training deficiency is overcome. Authority to use corrective training is part of the inherent powers of command.

(2) Care should be taken at all levels of command to ensure that training and instruction are not used in an oppressive manner to evade the procedural safeguards applying to imposing

non-judicial punishment (NJP). Deficiencies satisfactorily corrected by means of training and instruction will not be noted in the official records of the soldiers concerned.

Commander's Responsibilities.

a. Commanding officers exercise broad, disciplinary powers in furtherance of their command responsibilities. Discretion, fairness and sound judgment are essential ingredients of military justice. Commander should ensure that corrective training and instruction are not used in an oppressive, humiliating or belittling manner.

b. Commanders will familiarize themselves with their powers and responsibilities as outlined in MCM, AR 27-10, AR 600-37, AR 635-200, and other authorities. Legal advice is available from supporting judge advocates as to the appropriateness of corrective instructions.

c. Disciplinary measures are tailored to specific offenses and individual offenders. Commanders will neither direct subordinates to take particular disciplinary actions, nor unnecessarily restrict disciplinary authority of subordinates (see articles 37 and 98, UCMJ, and AR 27-10, regarding the proper exercise of authority by commanders).

d. Written counseling and NJP, if applicable, will be used for soldiers who fail to respond to proper corrective training for repeated minor deficiencies. When considering NJP, contact your supporting judge advocate for legal advice, as may be needed.

f. Ensure that deficiencies satisfactorily corrected by means of training and instruction will not be noted in the official records of the soldiers concerned.

Counseling

References:

- a. FM 6-22, Army Leadership, 12 October 2006.
- b. FM 6-22.5, Combat and Operational Stress Control Manual for Leaders and Soldiers, 18 March 2009.
- c. FM 7-21-13, The Soldiers Guide, 2 February 2004.

Related publications:

- a. AR 135-178, Enlisted Administrative Separations, 13 March 2007.
- b. AR 600-8-19, Enlisted Promotions and Reductions, 20 March 2008.
- c. AR 600-9, The Army Weight Control Program, 27 November 2006.
- d. AR 600-20, Army Command Policy, 18 March 2008.
- e. AR 623-3, Evaluation Reporting System, 10 August 2007.
- f. NGR 600-200, Enlisted Personnel Management, 31 July 2007.
- g. DA PAM 623-3, Evaluation Reporting System, 13 August 2007

SME: Staff Judge Advocate/CSMs

General: Counseling is the process used by leaders to review with a subordinate the subordinate's demonstrated performance and potential and is one of the most important leadership development responsibilities for Army leaders.

The Developmental Counseling Form (DA Form 4856) is designed to help Army leaders conduct and record counseling sessions. Leaders must decide when counseling, additional training, rehabilitation, reassignment, or other developmental options have been exhausted.

Three major categories of developmental counseling:

1. EVENT COUNSELING. Event-oriented counseling involves a specific event or situation. It may precede events such as appearing before a promotion board or attending training. It can also follow events such as noteworthy duty performance, a problem with performance or mission accomplishment, or a personal issue. Examples of event-oriented counseling include—

- Instances of superior or substandard performance: Although good leaders attempt to balance their counseling emphasis, leaders should always counsel subordinates who do not meet the

standard. If the Soldier or civilian's performance is unsatisfactory because of a lack of knowledge or ability, leader and subordinate can develop a plan for improvement.

- Reception and integration counseling: identifies and helps alleviate any problems or concerns that new members may have and familiarizes new team members with the organizational standards and how they fit into the team.
- Crisis counseling: Includes getting a Soldier or employee through a period of shock after receiving negative news and focuses on the subordinate's immediate short-term needs, which may include referring the subordinate to a support activity or coordinating for external agency support.
- Referral counseling: Helps subordinates work through a personal situation and aims at preventing a problem from becoming unmanageable. Appx B, FM 6-22 lists support activities.
- Promotion counseling: Army leaders must conduct promotion counseling for all specialists and sergeants who are eligible for advancement without waivers but not recommended for promotion to the next higher grade.
- Separation counseling: Adverse separation counseling may involve informing the Soldier of the administrative actions available to the commander in the event substandard performance continues and of the consequences associated with those administrative actions (see AR 135-178).

2. PERFORMANCE COUNSELING. Commanders shall provide regular and effective performance counseling to all soldiers, not just those whose performance fails to meet unit standards. All commanders will ensure that their subordinate commanders have implemented and are maintaining an effective performance counseling program.

During performance counseling, leaders conduct a review of a subordinate's duty performance over a certain period. Simultaneously, leader and subordinate jointly establish performance objectives and standards for the next period. Rather than dwelling on the past, focus on the future: the subordinate's strengths, areas of improvement, and potential. The officer evaluation report process requires periodic performance counseling as part of the OER Support Form requirements. Mandatory, face-to-face performance counseling between the rater and the rated NCO is required under the noncommissioned officer evaluation reporting system. (See AR 623-3). Performance evaluation for civilian employees also includes both of these requirements.

3. PROFESSIONAL GROWTH COUNSELING. Professional growth counseling includes planning for the accomplishment of individual and professional goals. During the counseling, leader and subordinate conduct a review to identify and discuss the subordinate's strengths and weaknesses and to create an individual development plan that builds upon those strengths and compensates for (or eliminates) weaknesses. Leaders and subordinates may choose to develop a "pathway to success", which includes opportunities for civilian or military schooling, future duty assignments, special programs, and reenlistment options.

THE FOUR-STAGE COUNSELING PROCESS

Stage 1: Identify the Need for Counseling

Stage 2: Prepare for Counseling

- Select a suitable place.
- Schedule the time.
- Notify the subordinate well in advance.
- Organize information.
- Outline the counseling session components.
- Plan the counseling strategy.
- Establish the right atmosphere.

Stage 3: Conduct the Counseling Session

- Opening the session.
- Discussing the issues.
- Developing a plan of action.
- Recording and closing the session.

Stage 4: Follow-Up

The counseling process continues throughout the implementation of the plan of action, consistent with the observed results. Leaders must consistently support their subordinates in implementing the plan of action by teaching, coaching, mentoring, or providing additional time, referrals, and other appropriate resources.

Equal Employment Opportunity

References.

- a. AR 690-600, Equal Opportunity Discrimination Complaints.
- b. Equal Employment Opportunity Policy (NMDMA Policy Log Number 2009-003), dated 1 October 2009.

Department of the Army Policy:

a. It is the policy of the Department of the Army (DA), to provide equal opportunity in employment for all people, and to prohibit discrimination in employment because of race, color, religion, sex, national origin, age disability, or reprisal.

b. Equal Employment Opportunity will be enforced by each commander or director ensuring that EEO laws, and agency policy are enforced. Commanders are personally responsible and accountable for the climate within their areas of responsibility. They must also insure that all supervisors and managers understand and meet their responsibilities in the discrimination complaint division.

General Information:

Race, Color, Religion, Sex, National Origin

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment on the basis of race, color, religion, sex or national origin.

Disability

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

Age

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

Sex

In addition to sex discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal in work in the same establishment.

NOTE: Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal Laws.

Evaluation Reporting System

Reference: AR 623-3, Personnel Evaluation System, 15 May 2006.

SME: G1 & Servicing MILPO

Department of the Army Policy.

Army evaluation reports are assessments on how well the rated Soldier met duty requirements and adhered to the professional standards of the Army officer or noncommissioned officer corps. Performance will be evaluated by observing action, demonstrated behavior, and results from the point of view of the values, leadership framework and responsibilities identified on the evaluation forms, counseling forms, and as explained in DA PAM 623-3. Consideration will be given to the following:

- a. The relative experience of the rated officer or NCO.
- b. The efforts made by the rated officer or NCO.
- c. The results that could be reasonably expected given the time and resources available.

Potential evaluations will be performance-based assessments of the rated officers or NCOs of the same grade to perform in positions of greater responsibility and/or higher grades. Assessment of potential will apply to all officers and NCOs, regardless of their opportunity to be selected for higher positions or grades and ignores such factors as impending retirement or release from active duty; this assessment is continually changing and is reserved for HQDA.

General Information.

1. Types of Reports.

a. First. The first NCOER is submitted on sergeants or above who have not been previously evaluated in the NCOER system. ARNGUS will prepare the first report for whichever of the following occurs first:

- (1) Immediate reenlistment or extension.
- (2) Transfer to the IRR.
- (3) Transfer to another ARNGUS unit.
- (4) Transfer to another RC.
- (5) Required for board action.
- (6) Change of rater.
- (7) Annual reporting month.

b. Annual. For OERs and NCOERs, an annual evaluation report is mandatory for a rated Soldier on completion of 1 calendar year of duty following the THRU date of the last OER or NCOER in the Soldier's OMPF.

c. Change-of-Rater. An OER or NCOER report is mandatory when the rated Soldier ceases to serve under the immediate supervision of the rater and minimum rating qualifications have been met. A newly commissioned officer or newly appointed warrant officer will not be rated on an OER under any provisions of AR 623-3 prior to completion of an officer basic course, except for relief for cause reports.

d. Extended annual report. An extended annual report can be prepared in cases when mandatory reports (for example, annual, change of duty/rater) come due while soldiers are attending schooling (AERs counting as nonrated time on an evaluation report). This report may be submitted to alleviate the need for a mandatory report while at school. The total number of evaluated months (rating period minus non-evaluated time) will be not more than 12 months even though the rating period (from to thru dates) may be longer. Also, in these circumstances, when a mandatory report comes due while a soldier is on TDY to attend a school, depart TDY report is also an option.

e. Change of duty.

(1) An OER change of duty report is mandatory when the rated officer has a change of principal duty even though the rater stays the same. This is used for all reassignments, including PCS. No report is submitted when organizational changes merely alter the rated officer's principal duty title but do not change the type of work performed (for example, Personnel Management Staff Officer to Assistant G1).

(2) A report is mandatory when the rated officer is separated from active duty. As an exception, retirement reports of less than 1 year will be rendered at the option of the rater or senior rater when requested by the rated officer. If the rated officer is retiring or is being released to the USAR after 20 or more years of active duty, the rater will indicate in their comments on DA Form 67-9 part V, the grade and assignment for which the rated officer or warrant officer will be recalled to active duty in the even of mobilization. (See DA Pam 623-3, table 2-5.)

(3) When the rated officer is declared missing or becomes a prisoner or hostage, a report is required as of the date of the incident. Under these situations, rating chain time minimums do not apply. Evaluations will not be rendered on officers for period during which they are missing, prisoner of war or hostages.

(4) Provisions of this paragraph do not apply to NCOs.

f. TDY, special duty, or compassionate reassignment. An OER or NCOER will be submitted on rated Soldiers by the rating officials in the organization from which the rated Soldiers depart when they depart on temporary duty (TDY), special duty (SD), or temporary change of station (TCS) to perform duties not related to the rated Soldiers' primary functions in

their units; and, while on TDY, SD, or TCS, they serve under a different immediate supervisor for a period of 90 or more calendar days for AGRs and 120 days for traditional guardsman.. However, this report is not required before departure on TDY for schooling (AER producing or otherwise).

(1) In cases where it cannot be determined if such duty-related TDY, SD, or TCS will last for 90 days, a report may be submitted.

(2) In cases when mandatory reports (Annual, change of duty/rater) come due while Soldiers are attending schooling (AERs counting as nonrated time on an evaluation report), this report may be submitted to alleviate the need for a mandatory report while at school. Also, in these circumstances an extended annual is also an option (para 3–46).

(3) A report is not authorized when the rated officer or NCO on TDY, SD, or TCS is still responsible to or receiving guidance or instruction from the chain of command of the parent unit or assigned organization.

(4) An individual attached to an organization pending compassionate reassignment remains responsible to the parent unit and will not receive an evaluation report from the attached organization. A memorandum of input from the supervising officials of the attached organization to the Soldier's rating officials is mandatory (see table 3–1).

e. Relief for Cause. An OER report is required when an officer or warrant officer is relieved for cause regardless of the rating period involved. Relief for cause is defined as an early release of an officer from a specific duty or assignment directed by superior authority and based on a decision that the officer has failed in their performance of duty. In this regard, duty performance will consist of the completion of assigned tasks in a competent manner and compliance at all times with the accepted professional officer standards shown in DA Form 67–9, Part IV. These standards will apply to conduct both on and off duty.

f. Senior Rater Option. For DA Form 67–9 and DA Form 2166–8, when a change in senior rater occurs, the senior rater may direct that a report be made on any officer whom they senior rate.

g. Sixty-Day Option. For DA Form 67–9 and DA Form 2166–8, when a change in senior rater occurs, the senior rater may direct that a report be made on any soldier whom they senior rate. When an evaluation report is due within 60 calendar days of the change in senior rater, the senior rater will submit a senior rater option report to prevent that OER or NCOER being submitted without a senior rater evaluation.

h. Complete the record. At the option of the rater, a report may be submitted on a rater officer who is about to be considered by a DA selection board for promotion or schooling (for example officers completing the Senior Service College). However, the rated individual will have served for a minimum of 120 days in the same position under the same rater as of the date of the memorandum announcing the zone of consideration.

Role of the Rater.

a. Shortly after the rated Soldier assumes duties, the rater will provide copies of the most recent rater and senior rater support forms, mission or objectives. By doing this, the rater ensures the rated Soldier has the necessary input from the chain of command to determine and prioritize responsibilities and performance objectives properly.

b. At the beginning of the rating period, the rater will inform the rated Soldier who is in the complete rating chain and ensure the correct rating chain is recorded on DA Form 67-9-1 or DA Form 2166-8-1, as applicable. The rater will notify the rated Soldier of any applicable changes to the rating chain. The rater will use the official, published rating chain described in paragraph 2-3 and ensure that the rating chain is published and kept up to date.

c. The rater will ensure that a rated officer serving under dual supervision (para 2-22) is notified of the additional chain of supervision. An officer acting as the additional rating official in a dual supervision situation will also assume the appropriate responsibilities of the rater in developing the separate DA Form 67-9-1.

d. The rater will conduct a face-to-face counseling with the rated Soldier within the first 30 days of the rating period. This initial discussion will focus on duties, responsibilities, and performance objectives of the rated individual. Correspondence and telephone conversations may be used as an alternative because of geographic separation, followed by a face-to-face discussion between the rated individual and rater at the earliest opportunity. Simply requiring the rated officer to submit written performance objectives on DA Form 67-9-1 or, in the case of NCOs, the rater preparing and providing a copy of the NCO's objectives on DA Form 2166-8-1 at the beginning of the rating period without a follow-up face to face meeting is an unacceptable shortcut of this provision.

e. The rater will verify the initial face-to-face counseling by initialing on the working copy of DA Form 67-9-1 or DA Form 2166-8-1 and will forward a copy to the senior rater for approval and validation (for officers) and verification of face-to-face counseling (for NCOs).

(1) For DA Form 67-9-1, see DA Pam 623-3, chapter 2, for process and procedures. Rated officers in the rank of CPT, LT, CW2, or WO1 will use both DA Form 67-9-1a and DA Form 67-9-1 in preparing support-form objectives with the rater.

(2) For DA Form 2166-8-1, see DA Pam 623-3, chapter 3, for processes and procedures. The rater will use the checklist provided on DA Form 2166-8-1 to prepare and update the form for mandatory counseling sessions.

f. Throughout the rating period, the rater will conduct periodic individual, follow-up face-to-face counseling with the rated Soldier. These counseling sessions differ from the first counseling session in that the primary focus is on the rater informing the rated individuals how well they are performing, how they can perform their duties better, and updating their duty descriptions.

(1) Quarterly counseling is mandatory for Active Army, AGR, and USAR on Active Duty Tour (ADT) for CPTs, 1LTs, WO1s and CW2s. Field-grade follow-up counseling is on an as-needed basis. As a rated officer's duty description, objectives, or focus areas change, the rater will counsel the rated individual and update the support forms throughout the rating period. Follow-up counseling for CPT/LT/CW2/WO1 ARNGUS and USAR officers will occur at least semiannually.

(2) NCOs will conduct follow-up counseling sessions quarterly for Active Army and AGR NCOs and at least semiannually for ARNGUS and USAR NCOs.

g. Raters are required to articulate their developmental counseling responsibilities, as major performance objectives, on their DA Form 67-9-1, Part IVb. Raters of CPTs, LTs, CW2s, and WO1s will ensure rater counseling requirements for DA Form 67-9-1a are included. In accordance with this regulation and DA Pam 623-3, chapter 3, raters of NCOs will ensure that rater counseling requirements for DA Form 2166-8-1 are included. In accordance with DA Pam 690-400, raters of DA civilians will ensure that rater counseling requirements for DA Form 7223-1 (Base System Civilian Performance Counseling Checklist and Support Form) and DA Form 7222-1 (Senior System Civilian Evaluation Report Support Form) are included.

h. The rater will review the final DA Form 67-9-1 when preparing DA Form 67-9 or final DA Form 2166-8-1 when preparing DA Form 2166-8. The rater will include the final duty description from the support form. The rater may include performance related information from the rated officer's or NCO's final support form. However, the choice of what to enter on the OER or NCOER is ultimately the rater's.

i. After the rated individual reviews and/or initials, raters will sign and date DA Form 67-9-1 or DA Form 2166-8-1 to acknowledge they reviewed it.

j. The rater will forward the final support form as follows:

(1) Officers will submit DA Form 67-9-1, along with the OER, to intermediate or senior raters to assist them in completing their section of the officer's evaluation.

(2) NCOs will submit DA Form 2166-8-1, along with the NCOER, to the senior rater to complete their section and process the evaluation.

Role of the senior rater. Each rated Soldier will receive a copy of the senior rater support form from the senior rater.

a. For officers.

(1) The senior rater will review, approve, and initial the draft DA Form 67-9-1 and, if applicable, the DA Form 67-9-1a when submitted after initial and follow-up face-to-face counseling.

(2) The senior rater will review the completed DA Form 67-9-1 and, if applicable, DA Form 67-9-1a at the time the OER is prepared. The narrative at DA Form 67-9, Part VIIb, may be based in part on the rated officer's final DA Form 67-9-1.

(3) The senior rater will ensure that DA Form 67-9-1 and, if applicable, DA Form 67-9-1a are returned to the rated officer when the completed DA Form 67-9 is forwarded to HQDA.

b. For NCOs.

(1) The senior rater will review, approve, and initial a draft DA Form 2166-8-1 when received after the initial and follow-up face-to-face counseling. The senior rater will also ensure compliance with Army evaluations counseling requirements.

(2) At the end of the rating period, the DA Form 2166-8-1 will be used to assist the senior rater with preparing an evaluation of the rated NCO and routed with the NCOER through the review process.

(3) The senior rater will ensure that DA Form 2166-8-1 is returned to the rated NCO when the completed DA Form 2166-8 is forwarded to HQDA.

Levels of Performance.

(1) **Excellence.** Exceeds standards; demonstrated by specific examples and measurable results; special and unusual; achieved by only a few; clearly better than most others.

(2) **Success.** Meets all standards. Majority of ratings are in this category; fully competitive for schooling and promotion. The goal of counseling is to bring all NCOs to this level.

(3) **Needs improvement.** Missed meeting some standard.

Redress and Appeals.

The NCOER Redress Program consists of several elements at various levels of command. The program is both preventive and corrective in nature in that it is based upon principles structured to prevent and/or provide a remedy for alleged injustices or regulatory violations, as well as to correct them once they have occurred.

Commander's Inquiry. Alleged errors, injustices, and illegalities in a rated Soldier's evaluation report may be brought to the commander's or commandant's attention by the rated individual or anyone authorized access to the report (para 1-11). The primary purpose of a Commander's Inquiry is to provide a greater degree of command involvement in preventing obvious injustices to the rated Soldier and correcting errors before they become a matter of permanent record. A secondary purpose is to obtain command involvement in clarifying errors or injustices after the evaluation is accepted at HQDA. The commander's inquiry procedures will not be used to document differences of opinion among rating officials about soldier's

performance and potential. The evaluation system establishes rating chains and normally relies on the opinions of the rating officials. Rating officials should evaluate and have their opinions constitute the organization's view of the rated NCO; however, the commander may determine through the inquiry that the report has serious irregularities or errors. Examples include, but are not limited to:

- a. Impropriety designated or unqualified rating officials.
- b. Inaccurate or untrue statements.
- c. Lack of objectivity or fairness by rating officials.

The inquiry will be made by a commander in the chain of command or military school commandant above the designated rating officials involved in the allegations. In headquarters and other military organizations lacking a commander or commandant, the inquiry will be conducted by the next higher official in the rating chain above the designated rating officials involved in the allegations.

Appeals

The rated Soldier or other interested parties who know the circumstances of a rating may appeal any report that they believe is incorrect, inaccurate, or in violation of the intent of this regulation. The results of a Commander's or Commandant's Inquiry provision under paragraph 1-11 do not constitute an appeal. They may be used, however, in support of an appeal. An appeal will be supported by substantiated evidence (see 623-3, para 6-11). An appeal that alleges a report is incorrect or inaccurate or unjust without usable supporting evidence will not be considered. The determination regarding adequacy of evidence may be made by NGB-ARP-C (Appeals Section); the appropriate State AG (ARNGUS) in coordination with the DCS, G-1 (DAPE-MPO-S).

a. Before deciding to appeal, an objective analysis of the report in question should be made. The burden of proof rests with the rated Soldier. AR 623-3, paragraph 6-11, discusses the level of evidence that must be provided. The soldier should be realistic in the assessment of whether or not to submit an appeal based on a careful review of AR 623-3. The soldier should also seek assistance from the Staff Judge Advocate, Personnel Service Center personnel, and career management officials whether an appeal is advisable.

b. Substantive appeals will be submitted within 3 years of an OER, NCOER, or AER THRU date. Failure to submit an appeal within this time may be excused only if the appellant provides exceptional justification to warrant this exception.

c. The burden of proof rests with the appellant. Accordingly, to justify deletion or amendment of a report, the appellant will produce evidence that establishes clearly and convincingly that

- (1) the presumption of regularity will not be applied to the report under consideration, and
- (2) action is warranted to correct a material error, inaccuracy, or injustice.

Family Care Plans

References:

- a. AR 600-20, Army Command Policy, 18 March 2008 (*RAR 002, 30 November 2009).
- b. AR 600-8-24, Officer Transfers and Discharges, 12 April 2006, (*RAR 001, 19 November 2008).

SME: G-1

Department of the Army Policy.

a. The Army assists the Soldier in providing for the care of his or her family members. Mission, readiness, and deployability needs especially affect Active Army (AA), Army National Guard, and USAR single parents and dual military couples with family members. Plans must be made to ensure family members are properly and adequately cared for when the Soldier is deployed, on temporary duty (TDY), or otherwise not available due to military requirements. Army National Guard and USAR Soldiers are subject to those policies and regulations, and will implement plans during any period of absence for annual training, regularly scheduled unit training assemblies, emergency mobilization and deployment, or other type of active duty. Emergency-essential civilians who meet the criteria set forth in paragraph 5-5a of AR 600-20 are encouraged to have a Family Care Plan that follows the guidelines set forth in this regulation.

b. DA Form 5305 (Family Care Plan) is not a legal document that can change a court-mandated custodial arrangement, nor can it interfere with a natural parent's right to custody of his/her child. Its sole purpose is to document for Army purposes the plan by which Soldiers provide for the care of their Family members when military duties prevent the Soldier from doing so, such as during mobilization and deployment. It will include proof that guardians and escorts have been thoroughly briefed on the responsibilities they will assume for the sponsor/Soldier and the procedures for accessing military and civilian facilities and services on behalf of the Family members of the sponsor/Soldier. It will attest that the guardian and escort agreed to provide care and have been provided all necessary legal authority and means to do so. It will include proof that the Soldier has obtained consent to the planned designation of guardianship from all parties with a legal interest in the custody and care of the minor child, or proof that reasonable efforts have been made to obtain consent to such designation.

c. As a minimum, proof will consist of the following attachments to DA Form 5305:

(a) DA Form 5841 (Power of Attorney) or equivalent delegation of legal control (unsigned until deployment).

(b) DA Form 5840 (Certificate of Acceptance as Guardian or Escort).

(c) DD Form 1172 (Application for Uniformed Services Identification Card—DEERS Enrollment) for each family member (Note: AR-600-8-14 directs that ID cards will be issued for children under age 10 who reside with a single parent or dual military couple).

(d) DD Form 2558 (Authorization to Start, Stop, or Change an Allotment) for active duty or retired personnel, unsigned until deployment, or other proof of financial support arrangements.

(e) A letter of instruction to the guardian/escort (see DA Form 5304 (Family Care Plan Counseling Checklist)).

d. Soldiers are responsible for implementing the Family Care Plan and thus ensuring the care of their family members. When operational or security considerations prevent the Soldier from implementing the plan, it will be used by appropriate military or civilian authorities to obtain care for such family members. DA Form 5305 may be executed at any time when conditions warrant and family care is necessary due to the required military absence of the Soldier. DA Form 5304, DA Form 5305, DA Form 5840, and 5841 are available on the APD Web site.

e. Soldiers must be able to perform their military duties without interference of family responsibilities. They must be available for duty when and where the needs of the Army dictate. They must be available for worldwide deployment when and where the needs of the Army dictate.

f. The DA Form 5305-R (Family Care Plan) is the means by which soldiers provide for the care of their family members when military duties prevent the soldier from doing so. It will include proof that guardians and escorts--

(1) Have been thoroughly briefed on the responsibilities they are assuming.

(2) Know how to access military and civilian facilities and services on behalf of the dependent family members.

(3) Agree to provide care and have been provided all necessary legal authority and means to do so.

g. Reserve component soldiers are subject to this regulation during periods of absence. Periods of absence include annual training, unit training assemblies, deployment and mobilization, or other types of active duty.

General Information. Soldiers must complete a FCP when any of the following apply:

a. Pregnant soldiers who--

(1) Are single, divorced, widowed, separated or reside without their spouse.

(2) Are married to another service member of an Active or Reserve component of any service (Army, Air Force, Navy, Marines or Coast Guard).

b. A Soldier who has no spouse; is divorced, widowed, or separated, or is residing apart from his or her spouse; who has joint or full legal and physical custody of one or more family members under the age of 19; or who has adult family member(s) incapable of self-care regardless of age.

c. Soldiers who are divorced (not remarried) and who has liberal or extended visitation rights by court decree which would allow family members to be solely in the soldier's care in excess of 30 consecutive days.

d. Soldiers whose spouse is incapable of self-care or is otherwise physically, mentally, or emotionally disabled so as to require special care of assistance.

e. Soldiers categorized as half of a dual-military couple of the AA or RC of any service (Army, Air Force, Navy, Marines or Coast Guard) who has joint or full legal custody of one or more family members under age 19 or who has adult family members(s) incapable of self-care regardless of age.

f. Soldiers must arrange for the care of their family members so as to be—

(1) Available for duty when and where the needs of the Army dictate.

(2) Able to perform assigned military duties without interference of family responsibilities.

g. Enlisted soldiers will be counseled on voluntary and involuntary separation whenever parenthood interferes with military responsibilities under provision of—

(1) AR 635-200 for AA soldiers.

(2) AR 135-178 for USAR and ARNGUS soldiers.

(3) AR 135-91 for ARNG soldiers.

h. Officers will be counseled on voluntary and involuntary separations whenever parenthood interferes with military responsibilities under provision of—

(1) AR 600-8-24 for AA soldiers and USAR and ARNGUS officers serving on active duty or on active duty for training (ADT) for a period in excess of 90 days.

(2) AR 135-175 for ARNGUS and USAR soldiers, except for officers serving on active duty or on ADT for a period in excess of 90 days.

(3) NGR 635-101 for ARNG soldiers.

i. Pregnant soldiers (who meet the criteria established in AR 600-20, paragraph 5-5b(1)) will be counseled—

(1) In the AA, according to AR 600-8-24 for officers and AR 635-200 for enlisted soldiers.

(2) In the ARNG and USAR, according to AR 135-91.

(3) On costs of maternity care obtained from civilian sources and the limitations concerning maternity care in military medical facilities.

(4) Using DA Form 5304-R as soon as pregnancy is identified but not later than 90 days prior to the expected date of birth of the child. Pregnant soldiers should receive Family Care Plan counseling at the time of pregnancy counseling to ensure the soldier is informed of the responsibilities if she chooses to remain on active duty.

(5) That they must complete and have an approved DA Form 5305-R showing their intentions for family care not later than 60 days prior to the date of the birth of the child. DA Forms 5840-R and 5841-R or other guardianship documents, DD Form 1172, DD Form 2558 will be completed and DA Form 5305-R re-certified not later than 45 days following the date of the birth of the child.

Commander Responsibilities.

a. Conduct FCP counseling. This can be delegated to an authorize representative.

b. The unit commander is the sole approving authority for DA Form 5305-R. This responsibility will not be delegated. Unit commanders must ensure that FCPs are current and updated, especially with regard to child custody or guardianship requirements.

c. The unit commander may authorize an additional 30 days (60 days total from the date of counseling) to all AA soldiers and 60 days (90 days total from the date of counseling) to all RC soldiers for completion, including submission and final approval of DA Form 5305-R with attendant documents.

d. Commanders must ensure that all required documents are in order, and must be satisfied that the FCP meets the requirements and appears to be workable and durable.

e. The commander should disapprove the DA Form 5305-R if the required attachments are not present unless extenuating circumstances exist.

f. The commander may consider extenuating circumstances in approving DA Form 5305-R, but must understand that the soldier is considered non-deployable until a FCP is validated and approved.

g. The commander must adequately test the validity and durability of the FCP, to include contacting the designated guardian(s) prior to final approval or re-certification.

h. The commander will provide the soldier 30 days from date of the first disapproval to submit additional documentation or evidence to support the FCP.

i. The commander will provide the soldier a reasonable period of time to attempt to rework a FCP found to be deficient at the time of mobilization, processing for overseas movement, or deployment. Ordinarily, a soldier will be afforded at least 30 days to correct efficiencies in a plan unless a shorter period is specified by the unit commander due to the urgency and/or nature of the deployment, or due to the nature of the deficiencies.

j. The commander may authorize leave for a deployed soldier to return home when the circumstances beyond the soldier's control preclude the designated guardian from exercising those responsibilities.

k. The commander should consider initiating a bar to reenlistment against soldier who fails to properly manage personal, marital, or family affairs, or who fails to provide or maintain adequate FCPs.

l. Commanders should consider initiating involuntary separation proceedings against soldier who fail to provide and maintain adequate FCPs.

m. Commander should take action to ensure he/she is aware of other situations, which may create changes in the status of his/her soldiers with regards to the soldier's responsibility to support family members. These include but are not limited to the following—

(1) Death or disability of spouse.

(2) Legal separation when initial agreements have identified the Soldier as custodial parent or guardian of one or more family members.

(3) Divorce proceedings awarding joint or full custody of family members to the Soldier.

(4) Court decrees awarding visitation rights to the Soldier for more than 30 consecutive days at a time, and the Soldier has not remarried.

(5) Adoption.

(6) Assumption of foster care responsibilities.

(7) Guardianship agreement for children or adults incapable of self-care to temporarily or permanently reside with the Soldier.

(8) Extended periods of absence by the spouse for schooling, hospitalization, employment, and so forth.

(9) Expiration of current power of attorney, change in guardianship due to PCS, change of temporary care provider, and so forth.

Financial Liability Investigations of Property Loss (FLIPL)

References:

- a. Title 41, Volume 2, Chapter 101, Part 39, Code of Federal Regulations, Interagency Fleet Management System, 6 June 2003.
- b. DoD Financial Management Regulation Volume 12, Chapter 7, Financial Liability for Government Property Lost, Damaged or Destroyed, March 2007.
- c. AR 11-2, Managers' Internal Control Program, 4 January 2010.
- d. AR 710-2, Supply Policy Below the National Level, 28 March 2008.
- e. AR 735-5, Policies and Procedures for Property Accountability, 28 February 2005.
- f. DA PAM 735-5, Financial Liability Officer's Guide, 9 April 2007.
- g. ARNG Unit Level Finance Procedures Manual, 1 May 2002.
- h. NGB-ARL Implementation of Department of the Army Approved Changes to AR 735-5, dated 23 APR 07.
- i. ALARACT, 124 2006 Army G4 Property Accountability Guidance, 28 June 2007.
- j. AGONM 735-5 NMARNG Financial Liability Investigations of Property Loss (FLIPL) Financial Liability Officers Handbook, 26 Feb 2008

SME: G-4, SJA, USPFO

General Information:

a. Soldiers and Department of the Army civilian employees may have to pay for Army property they lose or damage. Under Army Regulation (AR) 735-5, financial liability ordinarily will not exceed one month's base pay. In certain cases, however, such as the loss of personal arms or equipment, or damage to Government housing, liability may equal the full amount of the loss. The Financial Liability Investigation of Property Loss is the administrative tool used by the Army to establish personal liability.

b. A Financial Liability Investigation of Property Loss is not required in every situation where there is a loss or damage. If the loss is less than one month's base pay, the command may ask the responsible individual to sign a DD Form 362, Statement of Charges/Cash Collection Voucher. This is essentially an admission of liability for the lost or damaged property and an agreement to pay for it by the servicemember. The command cannot force or coerce someone to

sign the statement; it must be voluntary. A FLIPL is used in situations where responsibility for the loss is in question, or where the amount to be charged is in dispute.

National Guard Policy:

- a. Follow the provisions of AR 735-5

New Mexico National Guard Policy:

a. Each NMARNG soldier is tasked with proper utilization, care and safeguarding of NMARNG property to preclude loss or destruction of the same. In the event of loss or destruction, property accountability adjustment may require the initiation of a Financial Liability Investigations of Property Loss (FLIPL). AR 735-5, Policies & Procedures for Property Accountability, is the governing guidance for Financial Liability Investigations of Property Loss (FLIPL).

Commanders Responsibility:

a. The Commander will ensure all Government property within his or her command is properly used and cared for, and that proper custody and safekeeping are provided. Command responsibility is inherent in command and cannot be delegated. It is evidenced by assignment to a command position at any level and includes-

- (1) Ensuring the security of all property of the command; whether in use or in storage.
- (2) Observing subordinates to ensure their activities contribute to the proper custody, care, use, and safekeeping of all property within the command.
- (3) Enforcing all security, safety, and accountability requirements.
- (4) Taking administrative or disciplinary measures when necessary.

FLAGS (Suspension of Favorable Personnel Actions)

Reference:

- a. AR 600-8-2, Suspension of Favorable Personnel Actions (Flags), 23 December 2004.
- b. AR 600-8, Military Personnel Management.
- c. NGR 600-200, Enlisted Personnel Management

SME: G-1

Department of the Army Policy.

a. The flagging process includes the physical security and maintenance of the Military Personnel Records Jacket, U.S. Army (MPRJ) (if applicable) of soldiers not in good standing. The process depends on timely and accurate reports from commanders to initiate, transfer, and remove suspension of favorable personnel actions.

b. The Department of the Army will operate a system to guard against the accidental execution of specified favorable personnel actions for soldiers not in good standing.

c. A flag will be initiated immediately when a soldier's status changes from favorable to unfavorable. A flag will be removed immediately when a soldier's status changes from unfavorable to favorable.

d. Suspension of favorable personnel actions is mandatory when an investigation (formal or informal) is initiated on a soldier by military or civilian authorities. Flags are classified into the two categories described below, depending upon the specific action or investigation.

(1) Non-transferable Flags. The flag may not be transferred to another unit (except where consistent with AR 600-8-2, paragraph 1–15). The specific actions and investigations listed below require a non-transferable flag.

(a) Adverse actions.

- *Charges, restraint, or investigation*. Remove the flag when soldier is released without charges, charges are dropped, or punishment is completed.

- *Court-martial*. Remove the flag upon completion of punishment, to include any term of suspension. However, a flag for a soldier on a HQDA promotion list (officer promotable to 03–06, warrant officers promotable to CW3–CW5, and enlisted soldiers promotable to E7–E9) who is flagged for a court-martial, can only be removed by HQDA (AHRC-Alexandria-MSP-S). Forward a copy of the initial DA Form 268 along with supporting documentation to HQDA (AHRC-Alexandria-MSP-S).

- *Non-judicial punishment.* Remove the flag upon completion of punishment, to include any term of suspension. However, a flag for a soldier on a HQDA promotion list (officer promotable to 03–06, warrant officers promotable to CW3–CW5, and enlisted soldiers promotable to E7–E9) who is flagged for non-judicial punishment can only be removed by HQDA (AHRC-Alexandria-MSP-S). Forward a copy of the initial DA Form 268 along with supporting documentation to HQDA (AHRC-Alexandria-MSP-S).

- *Absent without leave (AWOL).* Remove the flag upon completion of punishment.

- *Administrative reduction.* Remove the flag on the day of reduction.

- *Memorandums of admonition, censure, or reprimand not administered as non-judicial punishment.* Remove the flag upon completion of filing instructions. However, a flag for a soldier on a HQDA promotion list (officer promotable to 03–06, warrant officers promotable to CW3–CW5, and enlisted soldiers promotable to E7–E9) who is flagged for one of these memorandums can only be removed by HQDA (AHRC-Alexandria-MSP-S). Forward a copy of the initial DA Form 268 along with supporting documentation to HQDA (AHRC-Alexandria-MSP-S).

- *AMEDD soldiers who are not in compliance with AR 40–68.* Remove the flag (code type E) on the date of compliance.

(b) Elimination—field initiated. Remove the flag when soldier is reassigned to a transition point.

(c) Removal from a promotion, command, or school selection list—field initiated. A flag for a soldier on a HQDA promotion list (officer promotable to 03–06, warrant officers promotable to CW3–CW5, and enlisted soldiers promotable to E7–E9) who is flagged for removal from command, promotion, or school list can only be removed by HQDA (AHRC-Alexandria-MSP-S). Forward a copy of the initial DA Form 268 along with supporting documentation to HQDA (AHRC-Alexandria-MSP-S).

(d) A referred officer evaluation report (OER) when on a promotion list. Remove the flag when received and accepted by HQDA.

(e) A security violation.

- *Local security violation.* Remove the flag upon direction of the commander.

- *Violation of Title 18 of the United States Code concerning sabotage, espionage, treason, sedition, or criminal subversion.*

- When case is closed favorably, remove the flag upon direction of the Commander, U.S. Army Central Personnel Security Clearance Facility (CCF).
- When case is closed unfavorably, remove the flag upon direction of the Secretary of the Army.

- *Violation of Articles 94, 104, 106, 133, and 134 of the Uniform Code of Military Justice (UCMJ).* Remove the flag upon direction from the Secretary of the Army.

(f) Elimination or removal from promotion, command, or school selection list—HQDA initiated. HQDA will remove the flag.

(2) Transferable Flags. The flag may be transferred to another unit. The specific actions and investigations listed below require a transferable flag.

(a) HQDA directed reassignment of flagged soldier. Remove the flag according to HQDA guidance.

(b) Movement of an adverse action into the punishment phase. Remove the flag according to the rules in paragraph 1–12a.

(c) Failure to pass the Army Physical Fitness Test (APFT) or failure to take the APFT within the required period. Remove the flag (code E/type report) on the day the soldier passes the APFT or at expiration term of service (ETS)/expiration of service agreement (ESA)/mandatory release date (MRD).

(d) Entry into Weight Control Program. Remove the flag (code E/type report) on the day the commander decides that the soldier is in compliance with the program.

(e) Soldiers who are command referred to the Army Substance Abuse Program (ASAP) in accordance with AR 600–85, paragraph 5–7. Remove the flag on date of compliance (Code E type report).

(3) Actions Prohibited by a Flag. A flag properly imposed in accordance with this regulation prohibits the personnel actions listed below (see para 1–15 for exceptions). The PSC will control to guard against accidental execution of—

(a) Appointment, reappointment, reenlistment, and extension.

(b) Entry on active duty (AD) or active duty for training (ADT).

(c) Reassignment.

(d) Promotion or reevaluation for promotion.

(e) Awards and decorations.

(f). Attendance at civil or military schooling.

(g) Unqualified resignation or discharge.

(h) Retirement.

(i) Advanced or excess leave.

(j) Payment of enlistment bonus (EB) or selective reenlistment bonus (SRB).

(k) Assumption of command.

(l) Family member travel to an overseas command (when sponsor is overseas).

(m) Command sponsorship of family members in an overseas command (when sponsor is overseas).

(4) Processing Exceptions.

(a) *APFT.* Flags for APFT failure block promotion, reenlistment, and extension only. A flag is not initiated if the soldier has a limiting physical profile that specifically prohibits taking the APFT.

(b) *Weight control.* Flags for weight control block only attendance at full-time civil or military schooling, promotion, awards and decorations, assumption of command, and reenlistment or extension. Soldiers attending a civil or military school on the date of the flag will not be removed from such schooling. Commanders may approve reenlistments and extensions under certain medical conditions as advised by the supporting total Army career counselor.

(c) *Reassignment.* HQDA will reassign soldiers returned to military control from dropped from the rolls (DFR). Soldiers in receipt of HQDA reassignment instructions may depart when their case moves into the punishment phase if the punishment does not require the soldier's continued presence. Major overseas commanders approve intra-command reassignments. Installation commanders approve intra-installation reassignments. Flagged soldiers may be reassigned if—(1) the flag is based on APFT failure; (2) the flag is based on entry in the weight control program; or (3) the flag case is in the punishment phase with no restraints on liberty imposed by civil court, court-martial; Article 15; or (4) reassignment is deemed necessary by installation or major overseas commanders (within their command) for the maintenance of discipline, morale, and unit order.

(d) *Advance or excess leave.* The General Court-Martial Convening Authority (GCMCA) may direct excess leave to soldiers sentenced by court-martial to dismissal or a punitive discharge when the sentenced has not yet been approved. The GCMCA or designee may grant an indefinite period of excess leave to soldiers awaiting administrative discharge in accordance with AR 600–8–10. Commanders may grant advance or excess leave when emergencies exist.

(e) *Unqualified resignation, discharge, or retirement.* Flagged soldiers may submit requests for consideration by HQDA.

(f) *Entry on AD or ADT.* Flagged ARNG and U.S. Army Reserve (USAR) soldiers may not apply for AD or ADT. HQDA may direct involuntary AD or ADT for flagged ARNG and USAR soldiers.

(g) *Awards and decorations.* Retirement awards and decorations for valor may be processed and presented to flagged soldiers.

(h) Erroneous flag will be declared void and of no effect.

Commander's Responsibilities.

a. Commanders direct the flagging action when a soldier's status changes from favorable to unfavorable. A flag action is to be removed when the soldier's status changes from unfavorable to favorable.

b. Initiate a separate flag for each investigation, incident or action.

c. Review active flag actions monthly.

d. Consult the security manager if determination is made to suspend access to classified information.

e. Ensure the rules for transferring and removing flags are being followed.

f. Ensure soldiers who fail the APFT or fail to meet height and weight requirements are flagged.

g. Ensure the soldier is informed of the flag action.

Gifts

References:

a. DOD Directive 5500.7-R, Section 3, 2-300, Joint Ethics Regulation.
5 C.F.R. 2635, *Standards of ethical conduct for employees of the executive branch*

b. CFR 2635.301-304, SUBPART C: Gifts Between Employees

SME: Staff Judge Advocate, Designated Agency Ethics Official (“DAEO”)

Code of Federal Regulations and Department of Defense Policy, Sec. 2635.302 General standards.

a. Gifts to Superiors.

(1) Except as provided in this subpart below, an employee **may not** directly or indirectly, give a gift to or make a donation toward a gift for an official superior; or

(2) Solicit a contribution from another employee for a gift to either his own or the other employee’s official superior.

b. Gifts from employees receiving less pay. An employee may not directly or indirectly, accept a gift from an employee receiving less pay than him unless:

(1) The two employees are not in a subordinate-official superior relationship; and

(2) There is a personal relationship between the two employees that would justify the gift.

(3) Notwithstanding any exception provided in this subpart, an official superior shall not coerce the offering of a gift from a subordinate under any circumstances.

c. Gifts from outside sources. An employee shall not solicit or accept a gift given because of his or her official position. Neither shall an employee solicit or accept a gift from a prohibited source.

General Information.

a. Gifts are almost anything of monetary value. Following are some exclusions:

(1) Coffee, doughnuts and similar items of food and refreshments when offered other than as part of a meal.

(2) Greeting cards and most plaques, certificates and trophies.

(3) Prizes in contests open to the public.

(4) Commercial discounts available to the general public or to all government or military personnel.

(5) Commercial loans, pensions and similar benefits.

(6) Gifts given during traditional occasions, birthdays and holidays, with a market value of \$10 or less per occasion.

(7) Items such as food and refreshments to be shared in the office among several employees.

(8) Personal hospitality provided at a residence, which is of a type and value customarily given on such occasions.

(9) Appropriate hostess gifts.

b. A prohibited source is any person (or organization more than half of whose members are persons) who:

(1) Seeks official action by an employee's agency.

(2) Does or seeks to do business with the employee's agency.

(3) Is regulated by the employee's agency.

(4) Is substantially affected by the employee's performance of duties.

c. Voluntary Contributions. An employee may solicit voluntary contributions from another employee for a group gift to the contributing employee's superior for any special, infrequent occasion in a nominal amount that shall not exceed \$10.

d. Regardless of the number of employees contributing to a gift or gift on a special, infrequent occasion, a DOD employee may not accept a gift or gifts from a donating group, which includes a subordinate, if the market value exceeds an aggregate of \$335 unless:

(1) The gift is appropriate for the occasion; and,

(2) The gift is given on a special, infrequent occasion that terminates the subordinate-official superior relationship, such as retirement, resignation, or transfer; and,

(3) The gift is uniquely linked to the departing employee's position or tour of duty and commemorates the same.

NOTE: It is strongly urged that, even in such a case where you are talking about a “uniquely linked” gift that commemorates the “tour of duty”, \$335 limit will be used to determine whether it (the gift) is “appropriate for the occasion.”

With respect to PCS (“transfer”) gifts, the requirement that the occasion “terminates the subordinate-official superior relationship” still is applicable. That means no “special occasion” gift if the employee being transferred remains in the chain of command, just at a higher level.

e. The cost of items excluded from the definition of a gift, and the cost of food, refreshments and entertainment provided to the employee and his personal guests to mark the occasion for which the gift is given shall not be included in determining whether the value of a gift or gifts exceeds the \$335 aggregate limit.

f. An employee may accept the following, otherwise prohibited gifts:

(1) Gifts clearly motivated by a family relationship or personal friendship.

(2) Commercial discounts and similar benefits offered to groups in which membership is not related to government employment or in which, if membership is related to government employment, the same offer is broadly available to the public through similar groups, and certain benefits offered by professional associations or by persons who are not prohibited sources.

(3) Gifts resulting from the outside business activities of employees and their spouses.

(4) Free attendance provided by the sponsor of a widely attended gathering of mutual interest to a number of parties where the necessary determination of an agency has been made.

(5) Certain food and entertainment in foreign areas.

Commander Responsibilities.

a. Become familiar with Standards of Conduct as specified in the Joint Ethics Regulation (JER), 5500.7-R and 5 CFR, 2635.

b. Ensure that all assigned personnel are familiar with these provisions.

c. Refer questions to the Office of the Staff Judge Advocate or designated DAEO.

HIV Testing

Reference:

- a. AR 600-110, Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV), 15 July 2005.
- b. DoD Directive 6485.1.
- c. AR 40-501, Standards of Medical Fitness.

SME: Deputy Chief of Staff, G-1, Medical Detachment and G-1

Department of the Army Policy:

HQDA medical, manpower, and personnel policies on HIV reflect current knowledge of the natural progression of HIV infection, the risks to the infected individual incident to military service, the risk of transmission of the disease to non-infected personnel, the effect of the infected personnel on Army units, and the safety of military blood supplies.

Testing Requirements:

Effective 15 July 2005, all members of the USAR, not on active duty, will be tested for the HIV antibody every 5 years as a mandatory requirement. HIV testing will be performed as part of all periodic physical examinations, in accordance with AR 40-501, and more frequently if required by paragraphs 2-2k (1) and 2-2k (2) of this regulation.

Personnel ordered to AD for more than 30 days including travel time (for example, ADT, AGR, initial active duty for training (IADT), temporary tours of active duty (TTAD), and active duty for special work (ADSW) must have been tested for HIV antibodies with negative results no later than two years prior to the report date and prior to issuance of orders. If your HIV test status is not communicated through established medical channels to the orders issuing authority within the first 29 days including travel time, these orders will terminate.

Notification and Counseling:

The State surgeon will be notified of any soldier whose initial test cycle is HIV antibody positive so that follow-up can be conducted. Initial test cycle Western Blot positive soldiers will be individually and privately notified of results by designated medical corps officers within the States. Negative HIV test results will be mailed to soldiers on DA Form 5668. The DA Form

5668 may be signed by the State HIV POC (or designee) in lieu of a medical authority. Spouses of confirmed HIV-infected ARNG soldiers will be notified of the positive test.

a. Soldiers who are initial Western Blot positive will be contacted and notified of the results of the initial test. A new blood sample will be drawn and tested. If the results of the second Western Blot test are negative, a third test will be performed on a fresh specimen. If the results of either the second or third Western Blot test are positive, the soldier will be notified and counseled per AR 600-110, paragraph 5-8.

b. HIV-infected ARNG soldiers, not AGR or on EAD, and their spouses will be counseled regarding the significance of a positive HIV antibody test, current medical knowledge on HIV infections, and ways to prevent transmission of the virus.

c. Counseling of ARNG soldiers will be conducted per paragraphs 2-13 and 2-14 of this regulation.

d. HIV-infected ARNG soldiers will be referred to civilian physicians for medical care and further counseling.

Assignments:

a. Persons who are HIV positive are not eligible for appointment or enlistment into the Army, ARNG, or USAR.

b. Except for those identified during the accession-testing program, soldiers who are HIV positive and demonstrate no evidence of progressive clinical illness or immunobiological deficiency will not be involuntarily separated solely on the basis of having been confirmed HIV positive.

c. HIV-infected soldiers, not AGR or on EAD, may prove fitness for service. ARNG HIV-infected soldiers will have 120 days from the date they are notified of their infection to complete a medical evaluation to determine fitness per the established DOD protocol for HIV or other guidance published by OTSG.

d. HIV-infected ARNG soldiers found to be medically unfit for duty will be separated per paragraph 5-11 of this regulation.

e. Soldiers found fit will be permitted to serve in the Selected Reserve in a non-deployable billet, if available.

f. Soldiers meeting fitness standards and placed in non-deployable billets must be reevaluated at least annually.

g. HIV positive active duty soldiers, including AGR, will be limited to duty within the Continental United States (CONUS).

h. In order to voluntarily transfer from one RC to another, or to voluntarily transfer to the IRR, ARNG soldiers must have been tested for HIV with negative results no longer than 5 years prior to the date of transfer. This does not apply to HIV-infected soldiers exercising their option to voluntarily transfer to the Standby or Retired Reserve.

Commander's Responsibilities:

a. Unit commanders will ensure that all personnel in their units are tested and that HIV infection/AIDS information and education is included in unit training programs per AR 600-110, chapter 8.

b. Commanders will formally counsel soldiers who test positive for the HIV antibody. This counseling will be conducted following the post-diagnosis preventive medicine counseling performed by medical department personnel. Commanders will use the DA Form 4856, General Counseling Form, and ensure that all topics are addressed (specific topics to be addressed are listed in Sections V, Chapter 2, AR 600-110). Commanders must ensure that completed counseling forms are maintained in a manner that protects the confidentiality of the information.

c. Accompany soldiers identified as HIV positive during initial notification.

d. Provide support and facilitate the support network for the HIV positive soldier during the initial notification and subsequent evaluation.

e. Protect soldiers confirmed as HIV positive from unwarranted invasions of their privacy.

f. Maintain unit status of the HIV testing requirement.

g. Consult with the servicing SJA on the limited use provisions of this policy and other restrictions on the use of HIV information.

h. After initial notification, counsel HIV positive soldiers in accordance with the policies specified in AR 600-110.

i. Ensure that information regarding HIV testing results is appropriately safeguarded in accordance with the policies specified in AR 600-110.

Note: Medical unit mission training requirements preclude the use of ARNG medical units to conduct HIV screening except as part of required periodic physical examinations.

Adverse Action:

Failure to submit to HIV Testing or other medical screening or processing may result in grounds for disciplinary action, up to and including administrative separation.

Homosexual Conduct in the Armed Forces

EXECUTIVE SUMMARY

REVISIONS TO DEPARTMENT OF DEFENSE HOMOSEXUAL CONDUCT POLICY

On 25 March 2010, the Secretary of Defense announced revisions to Department of Defense Instruction (DODI) 1332.14, *Enlisted Administrative Separations*, and DODI 1332.30, *Separation of Regular and Reserve Commissioned Officers*, regarding the procedures governing administrative separations for violations of the Department of Defense (DOD) Homosexual Conduct Policy (HCP). These revisions are effective immediately and apply to all current and future HCP administrative separation actions. DoDI 1332.14 and DoDI 1332.30 are the interim and applicable guidance until at such time as current “Don’t Ask, Don’t Tell” Homosexual Conduct Policy is rescinded, modified or changed by the Secretary of Defense.

Accordingly, the most significant changes affecting both enlisted and officer HCP administrative separations procedures are as follows:

Authority to Initiate and Conduct “Fact-Finding Inquiries” into Homosexual Conduct Raised

Under the revised DODI provisions, only a commander in the Soldier’s chain of command, in the grade of O-7 or higher, is authorized to initiate fact-finding inquiries involving homosexual conduct. A fact-finding inquiry may be conducted by the initiating commander or an appointee who is senior to the subject of the inquiry in the grade of O-5 or higher, or the civilian equivalent.

Revisions to “Credible Information” Requirement for Initiation of a Fact-Finding Inquiry or Separation Action

Under the provisions of both the prior and revised versions of the DODIs, commanders may only initiate fact-finding inquiries, when there is credible information that a violation of the HCP has occurred. Under the revised DODIs, however, information provided by third parties should be taken under oath.

Additional Guidance Provided Concerning “Reliable Persons” for Purposes of Evaluating the Credibility of Information

The revised DODIs provide that information provided by a “reliable person” “under oath” may be considered credible information for purposes of initiating a fact-finding inquiry or separation action. The revised DODIs also provide the following specific examples of those persons who may not be reliable:

A person with a prior history of untruthfulness or unreliability;

(1) A person with a motive to seek revenge against or cause personal harm or professional harm to the Soldier; and

(2) A person with a prior history of conflict with the Soldier.

Specific Categories of Information that Will Not be Considered for Purposes of Fact-Finding Inquiries or Administrative Separations

The revised DoDIs provide that the following categories of information will not be considered evidence of violations of the HCP or be used for purposes of fact-finding inquiries or separation proceedings without the Soldier's written consent:

(1) Information considered privileged pursuant to Rule 502 ("Lawyer-client privilege"), Rule 503 ("Communications to Clergy"), or Rule 513 ("Psychotherapist-patient privilege"), of the Military Rules of Evidence;

(2) Information provided by a Soldier to a medical professional in furtherance of medical treatment, or to a public health official in the course of a public health inquiry;

(3) Information provided by a Soldier in the course of seeking professional assistance for domestic or physical abuse sustained by the Service Member or by a member of the Service Member's household; and

(4) Information about a Soldier's sexual orientation or conduct obtained in the course of a personnel security investigation, as provided by DoD 5200.2-R, *Department of Defense Personnel Security Program*.

Initiation and Approval Authorities Changed for Enlisted HCP Administrative Separations

Enlisted separations for violations of the HCP may now only be initiated by a "commander in the [Soldier's] chain of command, in the grade of O-7 or higher." Under the revised DODI, the Separation Authority for enlisted HCP administrative separations "shall be a general officer... of equal grade or senior to the commander initiating [the] fact-finding inquiry or separation proceedings, in the [Soldier's] chain of command or serving as a Service-designated centralized separation authority." This may be the same general officer that initiated the separation.

Impact of Changes on Current Administrative Separation Actions

Because the DODI revisions are effective immediately, all open HCP inquiries and administrative separations must be evaluated to ensure compliance with the new DoD instructions. Soldier with pending separations for violations of the HCP may waive the minimum-grade requirements noted above for initiating of fact-finding inquiries and separation proceedings. In cases where the Soldier does not waive these requirements, the inquiry or separation proceedings should be reinitiated to ensure compliance with the revised DoD requirements.

Incapacitation Pay (INCAP) and Active Duty Medical Extension (ADME)

References:

- a. AR 135-381, Incapacitation Pay of Reserve Component Soldiers
- b. DA PAM 135-381, Incapacitation Pay of Reserve Component Soldiers Processing Procedures

SME: Health Systems Specialist, G1

Depart of the Army policy:

Under **Section 204, Title 37 United States Code**, Incapacitation Pay is Compensation for Soldiers whose Line of Duty injury, illness or disease prevents them from performing their military duties or results in a loss of civilian income.

Compensation Requirements.

a. Soldier of the National Guard or U.S. Army Reserve (USAR) is entitled to hospital benefits, pensions, and other compensation, similar to that for Soldiers of the Active Army for injury, illness, or disease incurred in LD, under the following conditions prescribed by law (10 USC 1074a):

- (1) While performing AD for a period of 30 days or less;
- (2) While performing inactive duty training;
- (3) While performing service on funeral honors duty under 10 USC 12503 or 32 USC 115.
- (4) While traveling directly to or from the place at which that Soldier is to perform or has performed:
 - (a) Active duty for a period of 30 days or less;
 - (b) Inactive duty training; or
 - (c) Service on funeral honors duty under 10 USC 12503 or 32 USC 115;
- (5) While remaining overnight immediately before the commencement of inactive duty training, or while remaining overnight, between successive periods of inactive duty training, at or in the vicinity of the site of the inactive duty training; or
- (6) While remaining overnight immediately before serving on funeral honors duty under 10 USC 12503 or 32 USC 115 at or in the vicinity of the place at which the Soldier was to so serve, if the place is outside reasonable commuting distance from the Soldier's residence.

b. The Soldier must be unable to perform military duties or able to demonstrate loss of civilian income.

c. If the LOD is approved, the Soldier may be entitled to:

- (1) Pay and allowances
- (2) Incentive Pay (if previously authorized)
- (3) Special Pay (if previously authorized)

d. The following limitations apply

(1) Medical and Dental Care *ONLY* for ILD injury, illness or disease (no medical benefits program)

(2) The Soldier does not accrue leave or retirement points

(3) Other Civilian income will be deducted from the Incap entitlement (includes Department of Veterans Affairs (DVA) Compensation, Workman's Compensation (WCP), Tips, Professional Fees, and Self-employment)

e. The following civilian compensation does not impact Incap entitlements:

- (1) Rents
- (2) Royalties
- (3) Retirements Pays
- (4) Dividends or Interests
- (5) Welfare Payments
- (6) Any other non-taxable Government Benefits (i.e., VA benefits)

f. Entitlements will terminate when

- (1) Returned to military duties and/or civilian employment
- (2) NILD Determination
- (3) Discharged from the service with or without benefits
- (4) Upon retirement

(5) Death

Start Date

- a. **IDT:** Starts the day after the IDT period (if a Saturday-Sunday drill start INCAP period on Monday even if Soldier is unable to drill on Sunday)
- b. **ACTIVE DUTY:** Starts the day following the last day of duty; NOTE: AD orders ARE NOT amended to shorten the period of the order to accommodate INCAP pay.

INCAP Approval Authority

- a. First six months - States/Territory Adjutant General (TAG)
- b. Seven Months and beyond – Chief, National Guard Bureau (CNGB)
- c. Effective 1 January 2008, all INCAP Pay requests must be submitted through the INCAP Pay Sub-Module located in the LOD module in MODS (www.mods.army.mil)

Classifications

- a. Tier I -Not fit for military duty/can perform civilian job
- b. Tier II - Fit for military/not fit for civilian/lost civilian wages

Required documentation

- a. Completed and approved LOD
- b. DA Form 7574 (INCAP Pay Monthly Claim Form)
- c. DA Form 7574 -1 (Physician's Statement)
- d. DA 7574 - 2 (Soldier Acknowledge INCAP Pay)
- e. DA Form 3349 (Current Physical Profile) (HRR)
- f. Commander's Statement (Memorandum)
- g. Current medical records
- h. Statements regarding civilian employment status
- i. Latest INCAP Review Board Minutes

APPEALS

- a. Must be in writing
- b. Must provide additional medical information to support appeal
- c. May appeal INCAP denials
- d. Forwarded to Pentagon G1 Office
- e. Submitted through Appeals Tab in Sub-Module located in MODS

Active Duty Medical Extension (ADME) is a voluntary Active Duty program into which a soldier who is injured or becomes ill while in an ADT, AT IDT, ADSW/ADOS status can be placed and receives medical care through the nearest Army medical treatment Facility. Soldiers placed in ADME may be eligible for Community Based Health Care organization (CBHCO) placement. Consider ADME whenever medical care will foreseeable take longer than 6 months. In order to qualify for ADME, the Injury or Illness must be incapacitating and the application packet must contain a *detailed* treatment plan written by the treating/ referring physician. Application packet is the Unit's Responsibility. **The HSS can assist but is not responsible for assembling and forwarding the application for ADME.** Guidance is published periodically in the Warrior Transition Unit Consolidated Guidance published by The Deputy Chief of Staff, G-1, ATTN: (DAPE-MPE-IP) and can be obtained from the HSS.

This program:

- a. Offers full Pay and Allowances
- b. Does not require monthly packet to continue on ADME
- c. Soldier and family receive medical benefits
- d. Soldiers receive retirement points
- e. Soldiers on ADME *may* be eligible for CBHCO placement and, as such, remain at home while undergoing treatment.
- f. Requires an approved LOD

Commander's Responsibilities:

- a. Ensure soldiers understand their options and are counseled on the pros and cons of INCAP versus ADME
- b. Ensure that the unit prepares the INCAP and ADME packets in a timely manner and forwards them to the HSS for review

- c. The unit sends the ADME packet to HRC-Alexandria.
- d. Remain in contact with each soldier in the INCAP and ADME program.
- e. Ensures that all soldiers who enter the INCAP or ADME program notify the commander of any changes in their status to include extensions on ADME, separated from the ADME and returned to duty, referral to a Medical Evaluation Board (MEB), separated from the Army as a result of the Physical Evaluation Board (PEB) Findings.
- f. Report changes in their soldiers' status to the Nurse Case Manager in the Office of the State Surgeon (OTSS)

Indebtedness of Military Personnel

Reference:

- a. AR 600-15, Indebtedness of Military Personnel, 14 March 1986,
- b. Federal Fair Debt Collection Practices Act,
- c. “NMDMA Policy Log Number 2007-012, Government Travel Card Policy, dated 20 December 2007,” and
- d. Section 30-20-12 NMSA 1978, Regarding improper use of telephones to threaten, harass or intimidate.

SME: Staff Judge Advocate; USPFO

Applicability: AR 600-15 applies to the Army National Guard of the United States (ARNGUS) on active duty, active duty for training, or special active duty under title 10, United States Code (ISC) (30 days or more duration). AR 600-15 does not apply to members of the ARNGUS performing duty in a State status under title 32, USC. Look to State policies when under title 32 status. The Fair Debt Collection Practices Act applies to all, but alleged violations are normally only pursued in civil court by complainants.

Fair Debt Collection Practices Act (section 1692, title 15, United States Code (15 USC 1692)).

a. **Authorized Contact.** A debt collector may not contact any person other than the soldier, his or her lawyer or legal counsel, or the creditor about any debt collection. The debt collector, however, may contact the employer if he or she has a written and signed consent from the soldier, or a court order permitting contact. The written consent must include the debt collector’s name. It is illegal for debt collectors to use another name when collecting debts.

b. **Authorization to Process Complaint.** Debt collectors who have obtained the needed written consent or court order and who have followed chapter 4 will have their debt complaints processed.

c. **Exemption.** Creditors who collect only on their own behalf are exempt from the Act.

Procedures governing notifying non-active duty personnel

a. General. The military department does not control the personal affairs of non-active duty personnel. These personnel usually are in a civilian status and are not subject to military jurisdiction and discipline. Therefore, such indebtedness is a civil matter that does not involve commanders, unless legal process and procedures have been initiated, which impact the Command.

b. **Verification of Status.** Debt complaints against former soldiers or others not on active duty will be sent to the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PSE-VS.

c. **NGB Actions.** After ARPERCEN verifies the status, the Chief, National Guard Bureau will ensure that debt complaints are delivered to the person concerned, using military channels for soldiers of the Army National Guard. When the complaint cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail, using PS Form 3811 (Return, Receipt, Registered, Insured, and Certified Mail). It should be marked Return Receipt requested-Deliver to Addressee Only.

d. **Claimant Notification.** After delivery of correspondence, the responsible official will advise the claimant of the date and method of delivery

Department of the Army Policy.

a. **Soldier Responsibilities.** Soldiers are required to manage their personal affairs in a satisfactory manner and pay their debts promptly. Failure to do so makes the soldier subject to administrative or Article 134, UCMJ, actions.

b. **Creditors** that comply with the provisions of AR 600-15, Chapter 4, will have their debt complaints processed by commanders.

c. **Involuntary allotments** may be established in the pay account of soldiers to be paid to creditors who have obtained a judgment from court.

Commander's Responsibilities.

a. **Contact the Staff Judge Advocate (SJA).** The SJA can provide additional guidance on what actions to take. The SJA can also help the commander determine if the debt collector complies with the Fair Debt Collection Practices Act. Refer soldiers to the Staff Judge Advocate or legal assistance if the soldier feels there are legal problems with the debt.

b. **Support Services.** Provide financial management counseling for soldiers that have problems in meeting valid debts. Army Community Services provides financial management counseling, seminars, and workshops in addition to consumer protection advice.

c. Title 10 Situations.

(1) **Process debt complaints:**

(a) **Meet Criteria.** Process complaints that meet the criteria in AR 600-15, Chapter 4. AR 600-15 provides guidance on returning complaints that do not comply with Chapter 4.

(b) **Inform Soldier/Process Complaint IAW Regulation.** Must formally inform the soldier of the claim of indebtedness against them. AR 600-15, Chapter 2, provides detailed guidance to commanders in processing debt complaints.

(2) Adverse Actions. In accordance with AR 600-15, Chapter 3, commanders must consider administrative or punitive actions against soldiers that: (1) Fail to promptly resolve unpaid lawful debts, IAW Article 134 UCMJ, and (2) Repeatedly fail to pay their legal debts, IAW Article 134 UCMJ.

(3) Access to Classified. If the soldier has access to classified information, it may be necessary to submit a report of derogatory information to the unit S2.

Initial Command Inspection

Reference: AR 1-201, Army Inspection Policy, 12 January 2004.

SME: J-3 and IG

Department of the Army Policy.

A new company (or similarly sized organization) commander will receive an initial command inspection (ICI) from his or her rater. The initial command inspection for a company will occur within the first 90 days of assumption of command. In the Army National Guard of the United States and the U.S. Army Reserve, the initial command inspection for new company commanders will occur within 180 days of the assumption of command.

General Information.

a. **Purpose.** The ICI ensures that the new commander understands the unit's strengths and weaknesses in relation to higher headquarters' goals and all established standards. The ICI will appear on the training schedule and will serve to evaluate the condition of the unit. The ICI will not, however, evaluate the commander's performance since assuming command.

b. **Results.** Only the inspected commander and that commander's rater will receive the specific results of the initial inspection. These results will serve as the basis for a goal-setting session between the incoming commander and his or her rater that will establish realistic goals to improve unit readiness. The incoming commander should receive a clear picture of the goals, standards, and priorities for the unit. These inspection results help set goals and may cause refinement in the DA (Department of the Army) Form 67-9-1 (Officer Evaluation Report Support Form). Commanders will not use the results of ICIs to compare units. IGs may also request from subordinate commands the results of ICIs (without unit attribution) for the purpose of analyzing trends.

c. **Subsequent command inspections (SCIs).** SCIs measure progress and reinforce the goals and standards established during the initial command inspection. Commanders will conduct SCIs following all initial command inspections at a frequency determined by the commander. These inspections are often focused inspections that only look at specific areas and are not necessarily complete re-inspections of the entire unit.

Commander's Responsibilities.

a. **Prepare.** Prior to the inspection, ensure unit personnel obtain recent command inspection results to review and consolidate all appropriate regulations and policies for areas to be inspected. Work with higher HQ to understand and meet established goals and standards.

b. **Schedule.** Ensure the initial command inspection appears on the training schedule.

c. **Follow-up.** Review results. Measure progress and reinforce the established goals and standards. Schedule an SCI. Request assistance as needed.

Leaves and Passes (Military)

Reference:

- a. AR 600-8-10 Leaves and Passes, 15 February 2006.
- b. NGR (AR) 600-5, The Active Guard/Reserve (AGAR) Program Title 32, Full-Time National Guard Duty (FTNGD).

SME: G-1, HRO

Department of the Army Policy.

a. **Annual Leave Program.** Unit commanders are the approval/disapproval authority for leave. The commander's leave and pass program must be designed to allow soldiers to use their authorized leave to the maximum extent possible within mission and operational constraints. Commanders and individual soldiers share the responsibility of planning leave around unit mission and/or operational requirements. AGR, ADOS soldiers will utilize the automated leave program <https://ftsmcs.ngb.army.mil/index.htm>. A commander may disapprove a request for leave regardless of the soldier's use or lose status or personal desires if:

- (1) The leave will interfere with mission or operational requirements.
- (2) The soldier is required to remain on station due to reasons such as investigations or pending personnel actions.

b. **Emergency Leave.** Emergency leave will be granted to soldiers only for family emergencies involving members of their household, immediate family or a sole surviving blood relative, whenever the circumstances warrant. Authorized emergency leave may be approved for reasons listed below:

- (1) Pregnancy of spouse and childbirth if a severe life threatening situation is documented.
- (2) The death of an immediate family member.
- (3) When soldier's presence would contribute to the welfare of a terminally ill member of the immediate family if the expected date of death were within 30 days.
- (4) For a serious situation involving accident, illness, or major surgery that cannot be postponed due to the urgency of the medical condition. The situation must result in a serious family problem that will impose severe or undue hardship because of member's failure to return home on either the member, his household, or immediate family.
- (5) Soldier is affected personally by a disaster (for example, hurricane, tornado, or flood) when severe or undue hardship would be encountered if the member failed to return home.

The following circumstances do not meet the criteria for emergency leave approval. Commanders may consider approving ordinary leave for situations described below:

- Marital problems, unless a severe life threatening situation is documented.
- To attend court hearings to resolve financial problems.
- To assist in harvesting crops or participate in managing business firms.
- Psychoneurosis based on family separation unless the attending physician believes that a severe psychotic episode is indicated and the member's return might prevent institutionalization.
- To settle the estate of a deceased relative.
- Situations involving a grandparent (not in loco parentis), aunt, uncle, cousin, niece, or nephew (when not the only living blood relative) or for a friend, or fiancée.

c. **Special Leave Accrual.** Special leave is authorized to those military personnel deployed away from home station in support of a military operation for a continuous period of at least 120 days in an area in which the soldier is entitled to imminent danger or hostile fire pay which prevents them from using their leave and maintaining no more than 60 days at the end of a fiscal year with a maximum of no more than 90 days. Instructions on how to request special leave is found in AR 600-8-10, Section III.

d. **Permissive TDY (PTDY).** PTDY is a nonchargeable absence from duty granted at no expense to the Government to perform a semi-official activity that benefits the service and the soldier. PTDY may be granted for the following:

(1) Career management to discuss career management and review personnel records (maximum absence authorized is 4 days).

(2) State jury service or be a witness at state criminal investigation proceedings or criminal prosecution (See AR 600-8-10, Section XVI, 5-32b).

(3) To attend civilian education programs (See AR 600-8-10, Section XVI, 5-32c).

(4) To attend meetings of associations, leagues, or councils formed by a DoD credit union provided that the Board of Directors requests the soldier's presence.

(5) To participate in other official or semi-official programs of the Army (See AR 600-8-10, Section XVI, 5-32e).

(6) For house hunting (incident to a PCS move CONUS or OCONUS). The PTDY may not exceed 20 days CONUS or 30 days OCONUS (only one home of record/domicile).

(7) To attend meetings (scientific, professional, or technical) (See AR 600-8-10, Section XVI, 5-32g).

(8) To complete the naturalization process (See AR 600-8-10, Section XVI, 5-32h).

(9) To soldiers stationed in CONUS to accompany a dependent patient to a designated medical facility as a non-medical attendant or to join a dependent patient when the soldier's presence is deemed essential by a physician/hospital commander (See AR 600-8-10, Section XVI, 5-32i).

(10) To attend certain professional instruction courses (See AR 600-8-10, Section XVI, 5-32j)

(11) To participate in scouting activities (See AR 600-8-10, Section XVI, 5-32k).

(12) To participate in/provide essential support to participants in sports, recreation, or talent events (See AR 600-8-10, Section XVI, 5-32l).

(13) To accompany a dependent patient to a designated medical facility where the soldier's presence is essential.

e. **Convalescent Leave.** Unit commanders may grant up to 30 days when soldiers return to duty after illness or injury (up to 42 days after the birth of a child). The hospital commander is the approval authority (when hospitalized) if more than 30 days (or more than 42 if after the birth of a child). For AGRs and soldiers on ADSW for more than 30 days, the Approval Authority is Chief Surgeon, NGB (NGB-ARS). A commander may require a soldier to return to duty prior to the end of convalescent leave if the unit mission is required (paragraph 5-7).

General Information.

a. Soldiers are often erroneously charged for leave. Lack of knowledge or improper training by Battalion S1 personnel is often the cause.

b. Soldiers will be charged leave for actual days taken. If a soldier works on the departure or return day for the majority of the normal working hours (more than one-half of the normally scheduled working hours), then that day is not charged as leave. An entry must be made in the remarks section of the DA Form 31.

c. If the soldier returns on a non-duty day, the preceding day is the last day of chargeable leave. Soldiers engaged in shift work normally have other non-duty days. Example: A soldier returns on Tuesday (Tuesday is his regularly scheduled non-duty day). The preceding day (Monday) is the last day of chargeable leave.

d. Definitions of leave:

(1) Accrued leave. This is leave that a soldier has earned and accumulated at a rate of 2.5 days per month. Leave in excess of 60 days at the end of the fiscal year will be lost unless authorized by AR 600-8-10, paragraph 3-3.

(2) Advanced leave. This is leave granted to soldiers with little or no leave balance. Basically, it's a loan of leave based on what a soldier expects to earn during his/her current term of service.

(3) Excess leave. This is leave without pay, allowances, or leave accrual. It is granted only upon the soldier's request, except as outlined in AR 600-8-10, paragraph 5-15. A soldier on excess leave who incurs a physical disability is not entitled to physical disability pay.

e. Passes. Regular and special passes. Passes are issued on the basis of days instead of the number of hours to be taken. The restriction on the number of hours for passes no longer applies.

(1) Three-Day Pass. A three-day pass starts at the end of normal duty hours and terminates at the start of normal duty hours on the 4th day.

- Three-day Regular Pass. A three-day regular pass includes a holiday. A soldier may depart on a three-day pass on Friday evening after duty hours and return in time for normal duty hours Tuesday morning.
- Three-day Special Pass. A soldier may depart on a three-day pass on Monday evening after work and return in time for duty Friday morning.

(2) Four-Day Pass. A four-day pass starts at the end of normal duty hours and terminates at the start of normal duty hours on the 5th day.

- Four-day Regular Pass. A four-day pass must include at least two consecutive non-duty days. For example—A soldier may depart on a four-day pass on Friday evening after duty hours and must return in time for the start of normal duty hours on Wednesday morning.
- Four-day Special Pass. A soldier may depart on a 4-day special pass on Wednesday evening after duty hours and must return in time for normal duty hours on Monday morning.

Commander's Responsibilities.

a. Encourage all soldiers to use their authorized leave to the maximum extent possible. Leave is beneficial to health, morale, and motivation and helps maintain efficient performance of military duties.

b. Commanders will ensure compliance with existing policies and procedures.

c. Commanders will encourage and assist soldiers to use their entire 30 days leave each year.

d. Counsel soldiers who refuse to take leave when the opportunity is afforded them on the command annual leave program.

e. Ensure soldiers are charged leave only for days taken.

f. Ensure voiding, reconstruction, or correction of DA Form 31 is done properly and when required.

g. Process and verify changes affecting leave such as, sick-in-hospital or sick-in-quarters.

h. Process and be thoroughly familiar with advanced and excess leave policies. Ensure soldiers understand the standards of each program.

i. Process emergency leave requests as quickly as possible. Be familiar with briefing requirements and travel authorizations afforded to soldiers. This applies to soldiers whose home of record (HOR) is overseas and to soldiers stationed overseas traveling to stateside HOR. Remind soldiers that emergency leave is chargeable leave.

j. Process request for leave in conjunction with Permanent Change of Station (PCS) or Temporary Duty (TDY). Do not grant extension requests to soldiers who have PCS'd from your organization.

k. Process requests for leave or travel outside of the United States. Ensure soldier is briefed on his responsibilities according to AR 600-8-10, Chapter 8.

l. Process requests for convalescent leave. Ensure supporting recommendation has been received from a physician. AR 600-8-10, Chapter 5, provides detailed guidance on medically related absences.

m. Process requests for pass. Soldiers are not authorized leave in conjunction with a special pass.

n. Ensure requests for permissive TDY are appropriate and authorized.

o. Denial of permissive TDY must be entered on DA Form 31.

Line of Duty Determinations (LODs)

Reference: AR 600-8-4, Line of Duty Policies, Procedures and Investigations

SME: Health Systems Specialist

Department of the Army Policy

Line of duty determinations are essential for protecting the interest of both the individual concerned and the U.S. Government where service is interrupted by injury, disease, or death. The Line of Duty conducted to determine if misconduct or negligence was involved in a soldier's disease, injury, or death. A person who becomes a casualty because of his or her intentional misconduct or willful negligence can never be said to be injured, diseased, or deceased in LD. Such a person stands to lose substantial benefits as a consequence of his or her actions; therefore, it is critical that the decision to categorize injury, disease, or death as not in LD only be made after following the deliberate, ordered procedures described in the regulation.

The purpose of the LOD is to:

- a. Protect Soldier's interest
- b. Protect Government's interest
- c. Document conditions for MEB/PEB processing if permanent disability results
- d. Document "service connection" for VA benefits Incapacitation pay
- e. Payment of authorized medical/dental bills
- f. Authorization of civilian and military care

There are two types of LODs: Formal and Informal.

Informal LOD Required When:

- a. Injury/Disease where there is no misconduct or willful negligence. Any injury/illness requiring care AFTER the end of training period (to pay for civilian medical bills)
- b. All cases of injury, except injuries/disease of no lasting significance (e.g., simple lacerations, abrasions, mild heat injuries, bloody nose, ear aches, uncomplicated headaches)
- c. LOD presumed "YES" without a formal investigation when there is no apparent misconduct or willful negligence (except for diseases under strange or doubtful circumstances)
- d. INFORMAL LODs are completed for, joint injuries (hip, knee, shoulder, ankle, wrist),

strains and sprains (neck, back, knee), and allergic reaction (bee sting, poison ivy, tick bite, immunizations)

Formal LOD Required When:

- a. Injury/Death or Disease under strange or doubtful circumstances;
- b. Injury/Death or Disease Due to misconduct or willful negligence
- c. Injury/Death involving abuse of alcohol or other
- d. Self-Inflicting injuries or possible suicide
- e. Injury/Death while AWOL
- f. Injury/Death while en route to final acceptance in the Army
- g. Death of an ARNG Soldier while participating in authorized training/duty
- h. Injury/Death of an ARNG Soldier while traveling to/from authorized training/duty
- i. ARNG on active duty 30 days or less disabled due to disease
- j. In connection with an appeal of an unfavorable determination of abuse of alcohol or other drugs
- k. Illness, Disease or Injury that Existed Prior To Service (EPTS) (see Chapter 4, AR 6008-4)
 - l. EPTS is any period between military pay/duty status. Includes medical conditions such as peptic ulcer disease, kidney stones, asthma, hypertension, diabetes, diverticulitis, cysts, leukemia and other cancers.
- m. When required or directed for other cases

LOD RESPONSIBILITIES FOR COMMANDERS:

- a. Ensure soldiers understand their responsibility to report injuries, illness, or disease promptly.
- b. Ensure higher headquarters & HSS is notified of the incident within 48 hours.
- c. Ensure soldiers understand the importance of the LOD process.
- d. At the final formation of each training day, ask all members about unreported injuries, etc, and initiate an LOD if necessary.

e. Ensure entries are made on the Unit Training Record (DA Form 1379) for all injuries, illnesses or diseases (IIDs) which occurred or were aggravated during the training period.

f. Monitor and follow through to ensure timely disposition of each case.

UNIT ADMINISTRATOR RESPONSIBILITIES:

a. Complete LOD training

b. Request LOD Module access (www.mods.army.mil and select the LOD module)

c. Complete HIPPA Compliancy requirements (contact the HSS or PDHRA coordinator)

d. Ensure all LOD packets are complete and accurate before entering in LOD Module

e. Monitor LOD Module to ensure timely disposition of each case by referring to AR 600-84 Table 3-1, 3-2

f. Monitor INCAP submissions

g. Contact the HSS Office for special case handling

INVESTIGATING OFFICER (IO) RESPONSIBILITIES

a. Investigating Officer (IO) is appointed for formal LODs

b. Commissioned Officer or Warrant Officer

c. Senior to soldier being investigated

d. Junior officers and Warrant officers must be supervised

IO PROVIDES

a. Facts of who, what, when, where, why, and how in the LOD

b. Supported evidential exhibits

c. Legible medical documentation

d. Hospital narrative summary signed by MD

e. Discharge summary w/medical diagnosis

f. Emergency Care and Treatment (Standard Form 558)

- g. Chronological record of Medical Care (SF 600)
- h. Consultation Sheet (SF 513)
- i. Correct Medical diagnosis or diagnoses
- j. All exhibits
- k. Accident Report, Road Map, Photograph or sketches
- l. Hour of departure/hour of arrival/distance and travel time
- m. Active/Inactive duty orders or training schedule
- n. Medical Report
- o. Statement of witnesses and Soldier utilizing DA Form 2823 all dates, places, persons and events leading up to and connected with Injury, disease, or death
- p. Enough pertinent information and data to enable later review to be made without more information
- q. Copy of orders or training schedule/DA Form 1379
- r. The beginning and ending dates on DD Form 261, item 3 a, b, c, d, and on
- s. DA Form 2173, item 23a and b Slip (DD Form 261)
- t. Written notification of adverse finding (AR 600-8-1, para 40-8 f(6))
- u. Copy of LODI with supporting evidence
- v. Copy of certified mail receipt from notification
- w. A review of Soldier response prior to making a LOD finding
- x. IO LOD finding in item #10 on DD Form 261

INVESTIGATING OFFICER TRAINING A comprehensive briefing is given to the investigating officer by the HSS Office. Contact the HSS Office (505-271-7149) for further information and questions regarding IO appointments.

LOD MODULE: The Line of Duty (LOD) module provides a web-accessible comprehensive, user-friendly tool for use at Units, JFHQ-S, and National Guard Bureau to administer and manage LOD determinations, incapacitation pay, medical care, and safety programs. Document

injuries that occur in the line of duty whether they are consider informal or need formal investigation depending on the details. Improved security is provided by the capability to digitally sign specified data elements using a Common Access Card (CAC) provided through the Army CAC/PKI program and government purchased digital signature software.

LOD MODULE ACCESS REQUIREMENTS:

- a. NMARNG Network Access
- b. AKO/CAC Log in access
- c. Must be a member of the LOD Chain of Command
 - (1) Profile centric
 - (2) Registration Screenshots Available
- d. HIPAA Certification on file (Annually)
- g. Complete LOD Training
 - (1) Thru NMARNG
 - (2) At PEC, Camp Robinson, AR

LOD training material is available from:

a. The LOD Module Tutorial available at \\Ngnm-inter2k\nmguard\DET-4\LOD Module Tutorial\LODTutorial.pdf

b. PEC Training Courses. LOD/INCAP Training Incorporated into:

- (1) Readiness NCO Course
- (2) HR Management Specialist
- (3) ARNG S-1 Course
- (4) OIC Course

c. In-House Training provided by HSS Office every year in the Spring. Training dates are published by the beginning of the 2nd quarter

CHECKLIST: Formal and Informal checklists are available at the HSS Office or on the NMARNG public website (select Units and the Med Det). LOD Checklists must be completely filled out and processed in accordance with AR 600-8-4 before entering LOD into the LOD Module.

INFORMAL LINE OF DUTY CHECKLIST

The original Line of Duty packet will be forwarded through the chain of command to Det 4, JFHQ (Med Det), ATTN: NMAG-MD-HS, 600 Wyoming Blvd NE, Albuquerque, NM 87123-1094

- _____ 1. Informal Line of Duty Checklist
- _____ 2. DA 2173 (Statement of Medical Examination and Duty Status)
- _____ 3. Rights Warning Statement
- _____ 4. DA 2823 (Sworn Statement) from injured/ill soldier (if willing to make a statement)
- _____ 5. DA 2823 (Sworn Statement) from witness/witnesses
- _____ 6. Medical Records (DD 689, SF 600, doctor's, nurse's, physical therapy progress notes, emergency room record, medical treatment record, radiology report, operative report, admitting history and physical, discharge summary, lab reports.

MEDICAL BILLS ARE NOT MEDICAL RECORDS

- _____ 7. Training authority (training schedule **AND** DA 1379 for IDT, Orders, STA certificate)
- _____ 8. For motor vehicle accident while traveling to or from duty, strip map showing direct route and route taken and police report
- _____ 9. Follow-up medical care authorization statement
- _____ 10. Original Health Insurance Forms from treatment facility for Tricare (HFCA 1500 or UB 92)
- _____ 11. DA 5006 (Authorization for Disclosure of Information)
- _____ 12. Disability Counseling Statement

UNIT: _____
NAME: _____ RANK: _____ SSN: _____

FORMAL LINE OF DUTY CHECKLIST

The original Line of Duty packet will be forwarded through the chain of command to Det 4, JFHQ (Med Det), ATTN: NMAG-MD-HS (SSG Friend), 600 Wyoming Blvd NE, Albuquerque, NM 87123-1094

UNIT: _____		
NAME: _____	RANK: _____	SSN: _____

- _____ 1. Formal Line of Duty Checklist
- _____ 2. DD Form 261**
- _____ 3. Investigating Officer Appointment Letter**
- _____ 4. DA 2173 **
- _____ 5. Soldier's Rights Warning Statement**
- _____ 6. DA 2823 (Sworn Statement) from injured/ill soldier**
- _____ 7. DA 2823 (Sworn Statement) from witness(es)
- _____ 8. Medical Documents (Civilian/Military) Doctor's notes, physical therapy progress notes, emergency room record, medical treatment record, radiology report, operative report, admitting history and physical, discharge summary, lab reports, etc.**
MEDICAL BILLS ARE NOT MEDICAL RECORDS
- _____ 9. Training authority (training schedule)**
- _____ 10. Last two Annual Medical Certificates (AMC)**
- _____ 11. Last five APFT Reports and All Profiles (DA Form 3349)**
- _____ 12. Photographs/Maps/Sketches
- _____ 13. Adverse Notification Letter with signed Certified Return Receipt on "Not In Line Of Duty Findings"
- _____ 14. Previous LODs and supporting documents
- _____ 15. Previous civilian injury medical records
- _____ 16. Annual Training/ADSW/AGR Order/DA Form 1379**
- _____ 17. JAG Review/Opinion**
- _____ 18. Police Report**
- _____ 19. Surgeon Review
- _____ 20. Death Certificate or Autopsy Report
- _____ 21. Disability Counseling Statement
- _____ 22. Psychological Evaluations for attempted Suicide**
- _____ 23. DA 5006 (Authorization for Disclosure of Information)

Medical Boards

References:

- a. AR 40-3, Medical, Dental, and Veterinary Care, 22 February 2008.
- b. AR 40-501, Standards of Medical Fitness, 14 December 2007.
- c. AR 600-60, Physical Performance Evaluation System, 28 February 2008.
- d. AR 635-40, Physical Evaluation for Retention, Retirement, or Separation, 8 February 2006.
- e. AR 600-8-24, Officer Transfers and Discharges.
- f. AR 135-178, Enlisted Administrative Separations.

SME: Health Systems Specialist

Department of the Army Policy.

- a. It is the objective of the Army to maintain an effective and fit military organization with maximum use of available manpower.
- b. The medical board process provides benefits for eligible soldiers whose military service is terminated because of a service-related disability and provides prompt disability processing while ensuring that the rights and interests of the Government and the soldier are protected.

General Information.

- a. The MOS/Medical Review Board (MMRB) is an administrative board charged with the responsibility of evaluating a soldier's ability or inability to physically perform their PMOS or specialty code tasks in a worldwide field environment.
- b. All soldiers receiving a permanent profile 3 or 4 (P3 or P4) must be referred to an MMRB. **EXCEPTION:** Soldiers with approved retirements, DA/locally imposed bars to re-enlistment, or pending administrative separations are not required to be evaluated. However, if a soldier has sufficient time in service remaining to be eligible for reassignment, and receives assignment instructions, he/she must be referred to an MMRB.
- c. MMRBs are actioned by the MILPO, not through the medical channels. This is not the case in all states! Our State Surgeon's office coordinates all MMRBs. Commanders must ensure that the MILPO schedule MMRBs for their soldiers.

d. Commanders must furnish a commander's evaluation to the MILPO prior to the scheduled MMRB. The evaluation will address the soldier's physical capability and impact of profile limitations. It is not the commander's job to state whether the individual is fit or not fit for duty.

e. The MMRB will make one of the following determinations for boarded individuals:

- (1) Retain current MOS/specialty code with limitations.
- (2) Reclassify or change in specialty.
- (3) Place in probationary status pending rehabilitation, not to exceed a six-month period.
- (4) Refer to PDES/MEB/PEB or RC Medical Disqualification Process.

f. Soldiers are non-deployable and will not be reassigned under the following situations:

(1) When assignment instructions have been received and the soldier possessing a "3" or "4" permanent profile has not been evaluated by an MMRB, soldiers will not proceed on assignment instruction until MMRB results are finalized.

(2) When the MMRB convening authority recommends probationary status, reclassification, or referral to the Army's disability system, the soldier will remain in a non-deployable status until DA completes final action.

g. Enlisted soldiers pending MMRB action may not re-enlist. The soldier, if otherwise eligible, may be voluntarily extended prior to ETS until a final determination is made by the MMRB. If the soldier is found fit or retained, re-enlistment will not be denied solely because of MMRB processing.

h. Officers pending MMRB action may apply for CVI, VI, or RA status. However, final approval will not be made until the MMRB action has been finalized.

i. The Medical Evaluation Board (MEBD) is a narrative summary documenting a soldier's medical status and duty limitations.

j. Generally, only those cases that present problematical or controversial aspects and those in which are required by regulation will be referred to the MEBD. Some of the cases that require referral are:

- (1) Soldiers with medical conditions or physical defects that are usually progressive in nature and expectations for reasonable recovery cannot be established.
- (2) Soldiers whose medical fitness for return to duty is problematical or controversial.
- (3) Soldiers with cases involving mental competency.

(4) Soldiers scheduled for separation under AR 635-100 and AR 635-200 when it appears that mental illness, medical condition, or physical defect is the direct cause of unfitness or unsuitability.

(5) Soldiers pending referral to the PEB.

k. Soldiers are non-deployable once they are referred to an MEBD.

l. The PEB is the final step in the medical process. This board is charged with determining the medical fitness of a soldier, either fit or unfit for duty, and the amount of disability awarded.

m. The PEB basis fitness on the preponderance of the evidence presented. The board evaluates the soldier's medical prognosis and performance appraisals to determine overall retention.

n. The PEB evaluation of a soldier's performance encompasses the commander's evaluation, letters from supervisors, NCOER/OERs and personal testimony. Commanders must convey a consistent appraisal of the soldier's performance and address discrepancies with conflicting information. They must ensure that any physical defects impacting on a soldier's duty performance are reflected on the soldier's efficiency report. Worldwide deployability will not serve as the sole basis for a finding of unfitness by the PEB and cannot be addressed in the commander's evaluation.

o. The PEB conducts informal and formal boards.

(1) The informal board is a review of the medical file, without the soldier in attendance. If the soldier agrees with the board's findings, the proceedings are finalized. If the soldier disagrees with the findings, the proceedings are forwarded to the formal board.

(2) The formal board is a review of the medical file, with the soldier in attendance. The soldier has the opportunity to present his/her case directly to the board. If the soldier agrees with the board's finding, the proceedings are finalized. If the soldier disagrees with the finding, the proceedings are forwarded to the Army Physical Disability Appeal Board (APDAB) for final action.

p. The most time consuming actions within the medical board process are:

(1) The issuance of the permanent profile, due to prolonged temporary medical problems. Typically, a series of necessary appointments are not made concurrently causing time consuming treatment plans.

(2) The MEBD, due to the complications of processing the physician's dictation.

Commander Responsibilities.

- a. Create a working relationship with the attending physician to ensure the needs of the Army and the medical needs of the soldier are met.
- b. Create a working relationship with the Physical Evaluation Board Liaison Officer (PEBLO). The PEBLO tracks all MEBD/PEB actions and suspense.
- c. Create a working relationship with the HSS/MMRB representative.
- d. Write a useful commander's evaluation that relays the actual daily routine of the soldier, not to be a disclaimer of what the individual cannot perform. The commander cannot state if the individual is fit or not fit for duty.

Medical Readiness

References:

- a. AR 40-3, Medical, Dental and Veterinary Care
- b. AR 40-5, Preventive Medicine
- c. AR 40-66, Medical Record Administration & Health Care Documentation
- d. AR 40-501, Standards of Medical Fitness
- e. AR 40-562, Immunizations and Chemoprophylaxis
- f. AR 220-1, Unit Status Reporting
- g. AR 600-63, Army Health promotion

SME: State Surgeon and Deputy State Surgeon in the Office of the State Surgeon (OTSS)

Department of the Army Policy: The medical readiness of our Soldiers is critical to success on the battlefield. Maintaining our Human weapon System, similar to mission essential vehicles and equipment on the battlefield, will allow for predictability of personnel resources. Medically ready Soldiers are less likely to be missing from training while at home station and are less likely to be a preventable loss while deployed. Maintaining Soldier and unit medical readiness is the responsibility of every commander and leader in the Army and Army National Guard.

Medical Occupational Data System (MODS): The Army system that is designed to track Soldier and unit medical readiness across a spectrum of medical and dental elements. This system is fed by a variety of DoD/Army databases and by your unit to give you the most readily available and complete picture of your Soldiers' and units' Medical Readiness.

Medical Readiness Indicators (Fully Medically Ready or FMR): Soldiers and units are coded by medical readiness indicators. These indicators are posted in the Soldier's AKO medical readiness notices on the AKO home page. These include:

- a. Dental Exam (annual)
- b. Vision Screening Exam (annual)
- c. Hearing Exam (annual)
- d. Periodic Health Assessment or PHA (annual)
- e. Deployment Limitations
- f. Deployment Labs
- g. Immunizations/Pharmacy
- h. Personal Medical Equipment

i. Medical Warning Tags

j. Deployment Health Assessments

Individual Medical Readiness and Fully Medically Ready Classification System

GREEN	Fully medically ready	Immunizations current
		Dental Class 1 or 2
		Current med readiness labs
		No deployment limiting condition
		Current Health Assessment
		Medical Equipment Current
AMBER	Partially medically ready	Needs immunization
		Needs medical readiness lab
		Needs medical equipment
GRAY	Indeterminate	Health Assessment overdue
		Dental Class 4
RED	Not medically ready	Dental Class 3
		Deployment prohibiting condition
		Hospital inpatient or convalescing

Dental Readiness

a. RC Soldiers are required to maintain their dental health status in either Class 1 or 2 by regular visits to their dentist (at least annual)

(1) Comprehensive Dental Exam

(2) Bite wing X-Rays

(3) Current Panograph (full mouth) X-Ray (no time limit; at the discretion of the dentist)

b. Address dental disease that renders the soldier a medically non deployable (Dental Class 3 or 4) (e.g. treatment of cavities, gum disease, etc.)

c. M-Day Soldiers utilize personal Dental Insurance or Tricare Dental Program to maintain Dental readiness

d. AGR Soldiers utilize Tricare Prime or Prime Remote in maintaining Dental Readiness

e. Report dental status to the unit utilizing DD Form 2318, DoD AC/RC Forces Dental Examination, completed by their personal dentist

f. A dental team will be present during the Annual PHA event.

Vision Screening. Every year, all soldiers will undergo Vision Screening assessment at unit level. This consists of:

- a. Vision Screening IAW the Vision Screening Manual available in MEDPROS (under recent MEDPROS updates...Training Manuals)
- b. Reading an eye chart at 20 feet, both eyes open, with and without eye prescription (glasses or contacts)
- c. Soldiers over the age of 40 must also be tested for near vision
- d. Documenting if a soldier has one or two pair of corrective lenses and mask inserts
- e. Obtaining a copy of the soldier's eye prescription for entry into MEDPROS annually or as the prescription changes
- f. Unit conducts screening and reports it to the Office of the State Surgeon (OTSS)

Hearing Conservation

- a. Current hearing or Audiology screening
- b. Annual for high risk occupations and soldiers with documented H2/H3 hearing
- c. Performed during the Periodic Health Assessment.
- d. Must be current within one year for Deployment.
- e. Soldiers who are newly identified as H2 or H3 (serial profile) on Hearing testing will be referred to an Audiologist for further evaluation and
- f. Soldiers with proven H3 serial profile will complete Speech Recognition Interpretation Testing (SPRINT) *before* being referred to a Medical Board or processed for reclassification or separation.

Periodic Health Assessments

- a. Effective 1 October 2008, the Periodic Health Assessment (PHA) replaced the Periodic Physical Examination
- b. PHA is an annual event conducted at the unit by the State Medical Detachment or by a contractor.
- c. PHA events will normally include screening or testing for all Medical Readiness indicators as defined above, to include Deployment Lab work (Blood Type, HIV, DNA and G6PD)

- d. Soldiers will complete the PHA survey in AKO prior to the scheduled unit PHA event.
- e. A credentialed health care provider will complete the PHA survey in MODS during a face-to-face encounter with the soldier.
- f. The provider will update the soldier's Physical Profile and issue any referrals for further evaluation by the soldier's Primary Care Provider
- g. Soldiers under 40 will undergo Lipid screening, Fasting Blood Sugar, routine urinalysis, and a Blood Count every 5 yrs
- h. Soldiers reaching their 40th birthday will undergo an Over 40 Cardiovascular Screening evaluation (males will be screened for Prostate cancer and Colon Cancer) during the PHA event and every 5 yrs thereafter.
- i. Soldiers are required to bring to the PHA event:
 - (1) Copy of their current eye prescription
 - (2) List of current medications (prescription and over the counter)
 - (3) Female Soldiers must provide a copy of their current GYN exam and the results of their PAP test
 - (4) Female Soldiers over the age of 40 must provide a copy of current Mammogram
 - (5) Any and all medical documentation related to medical treatment that occurred since the last PHA or Physical Exam, especially when the medical condition requires a physical profile (temporary or permanent)

Physical Examinations

- a. Replaced by the PHA
- b. Still conducted at the State Medical Detachment for:
 - (1) Special Schools (Airborne, SERE, HALO, Free Fall Parachute, Ranger and Special Forces Schools
 - (2) Flying Duty Medical Examinations (FDMEs)
 - (3) Medical Evaluation Board
 - (4) Separation and Retirement
- c. A physical examination is considered a PHA and will be captured as such in MEDPROS

Immunizations

- a. The Routine Adult (RA) immunizations for Reserve Components for mobilization are:
 - (1) Tetanus Diphtheria (every 10 yrs)
 - (2) Hepatitis A series (2 shots at 6 months apart)

- (3) Hepatitis B Series (3 shots: day 0, day 30 and day 180)
- (4) Annual Influenza
- (5) Medical personnel require annual Tuberculin Tine screening

b. Other immunizations will be administered based on the unit's ODT mission as outlines in the Travelers Guidance contained in the Centers for Disease Control (CDC) web site.

c. Soldiers, who have received any vaccinations/immunizations, must provide their unit with a copy, which must be forwarded to the OTSS for entry in MEDPROS by the MEDPROS manager. ANY SOLDIER WHO STATES HE/SHE HAS RECEIVED A REQUIRED VACCINATION AND DOES NOT HAVE DOCUMENTATION, WILL BE VACCINATED AGAIN.

Medically non-deployable (Physical Profiling)

a. All Physical Profiles will be entered into the Medical Non-Deployable (MND) Module in MODS

b. Temporary and permanent profiles are issued IAW Chapter 7, AR 40-501

c. Soldiers with medical conditions must provide the unit with a copy of their medical documentation and PCP's duty restrictions.

d. Pregnancy profiling

(1) All female soldiers who have been determined to be pregnant MUST notify their commander immediately and provide documentation from their provider.

(2) The unit will forward documentation to the OTSS where a Pregnancy Profile will be issued.

(3) Upon termination of the pregnancy, regardless of the reason, a Post Partum profile (usually 42 days) will be issued based on clinical documentation from the Soldier's provider.

(4) High risk pregnancies and complications surrounding delivery will require special consideration by the profiling officer based on clinical documentation and the recommendations of the treating provider.

(5) Commander and supervisors should become familiar with paragraph 7-9 and 710, AR 40-501.

e. Commanders may request access to the MND module in MODs to view temporary profiles and to complete permanent profiles.

Fitness for Duty Evaluations (FFDEs)

a. Whenever a soldier can no longer perform the duties of his/her position, rank or grade due to a physical limitation, the commander may request a Fitness for Duty Evaluation or FFDE.

b. The APFT is the level of activity that may be expected from the ARNG soldier in the

normal range of duties. Soldiers who continually fail the APFT, should be referred for a FFDE

c. The FFDE can be performed as part of the PHA or the commander may refer the soldier to be seen at the State Med Det during a Drill weekend.

d. Upon completion of the FFDE, the soldier will be issued a profile based on the duty limitation(s) and the evaluating provider will issue recommendations:

(1) Return to Duty (RTD)

(2) Temporary profile

(3) Permanent Profile

(4) If any serial profile contains a numeric indicator of 3 or 4, the soldier does not meet retention standards (except Hearing (H3) which has to be evaluated by an Audiologist before recommendations are made).

(5) ONLY MEDICAL CONDITIONS THAT ARE DETERMINED TO HAVE OCCURED IN THE LINE OF DUTY WILL BE REFERRED TO A MMRB.

(6) Soldiers with medical conditions that fall below retention standards and WERE NOT incurred in the Line of Duty may be offered a Non-Duty Physical Evaluation Board or processed for separation UP of the appropriate regulations (see Separations)

Soldier Readiness Checks and Soldier Readiness Processing (SRC/SRP)

a. The medical portion of the SRC and SPR is similar to the PHA event in every aspect.

b. SRC/SRP also includes Personnel, Legal, Chaplain, ESGR, and Family Readiness

c. An SRC looks at the unit medical readiness, correcting deficiencies and collects data to provide the recourses necessary getting soldiers fit for deployment (e.g., dental treatment of disqualifying dental conditions, etc)

d. An SRP is the final process at Home Station that validates all the medical Readiness Indicators prior to moving the unit to the mobilization station

e. Continuous attention to the aforementioned requirements will minimize the time correcting medical and dental deficiencies and ease in identifying soldier who are not medically fit for deployment.

Medical and Dental Records Management

a. All Medical and dental Records are centrally managed and maintained at the OTSS Medical Records Section

b. Soldiers and Units are not allowed to hold on to medical or dental records

c. AGR soldiers are allowed to hand carry their Medical/Dental Records. However, they will provide a copy of their Medical/Dental records to the OTSS Medical Records Section for

mobilization purposes.

- d. Medical and dental records are the property of the US Government
- e. The information contained in these records belongs to the soldier who may request a copy at any time
- f. All Medical and Dental Records will be scanned into the Health Readiness Record (HRR) module in MODS
- g. The Medical/Dental Records manager will make these records available to the commander during PHA events and SRC/SRP
- h. The Medical/Dental Records manager is responsible for entering all medical readiness data into MEDPROS
- i. Medical Records POC can be reached at (505) 271-7147

Deployment Health Assessments

- a. Pre Deployment Health Assessment (PDHA) DD Form 2795.
 - (1) Available through AKO
 - (2) Each Soldier completes the PDHA prior to Mobilization
 - (3) PDHA is reviewed as part of the HS SRP
- b. Post Deployment Health Assessment, DD Form 2796
 - (1) Available through AKO
 - (2) Each Soldier completes the PDHA prior to re-deployment to mobilization station
 - (3) Post deployment Health Assessment is reviewed by a provider during the reverse SRP at mobilization station and prior to Release from Active Duty
 - (4) Commanders and supervisors must ensure that their soldiers complete this assessment honestly and fully disclose all medical conditions (injuries/illnesses) that occurred from the time they were mobilized.
- c. Post deployment Health Re-Assessment (PDHRA)
 - (1) Mandatory event conducted 90-180 days following REFRAD
 - (2) Available through AKO
 - (3) Completed by each soldier during the 90-180 day period following REFRAD
 - (4) Reviewed by a provider during a unit PDHRA event.
 - (5) May be done individually in AKO and completed with a telephonic interview with a provider.
 - (6) This item is tracked by DA and reported to NGB and to TAGs
 - (7) The PDHRA must be included as part of the first 90-180 days following REFRAD.

Commander's Responsibilities

- a. Ensure that all soldiers under his/her command are briefed annually on what constitutes Medical Readiness.
- b. Monitors the unit's MEDPROS data and Medical Readiness.
- c. Schedules the unit for an annual PHA event (coordinated with higher HQs)
- d. Ensures all soldiers complete PHA event (to include Dental, Vision and Hearing Screening) annually
- e. Monitors the units Medical Readiness Indicators and strives to achieve 90% Fully Medical Ready status as set forth by DA.
- f. Ensures that soldiers report changes in medical and dental health
- g. Ensures that medical and dental information provided by soldiers is forwarded to the OTSS for capture in MEDPROS
- h. Coordinate with the OTSS on scheduling soldiers for FFDE as necessary
- i. Ensures Pregnant Soldiers are properly profiled.
- j. Scheduled the PDHRA during the 90-180 days post deployment period.

Soldiers' Responsibilities: Each ARNG soldier is individually responsible for the maintenance of his or her medical, physical, (dental) and mental fitness. That includes correcting remedial defects, avoiding harmful habits and weight control. The maintenance of good strength and aerobic conditioning is of prime importance to the modern soldier. The APFT is the level of activity that may be expected from the ARNG soldier in the normal range of duties.

Mental Health Evaluations of Members of the Armed Forces

References:

- a. DoD Directive 6490.1, Mental Health Evaluations of Members of the Armed Forces, October 1, 1997, Certified Current as of 24 November 2003.
- b. DOD Instruction 6490.4, Requirements for Mental Health Evaluations of Members of the Armed Forces, August 28, 1997.
- c. DOD Directive 7050.6, Military Whistle-blower Protection, 23 July 2007.
- d. AR 40-501, Standards of Medical Fitness, 14 December 2007.

SME: Medical Detachment, Staff Judge Advocate, Inspector General.

Department of the Army Policy.

- a. A commanding officer shall consult with a mental healthcare provider (MHCP) through the State Med Det before referring a member for a mental health evaluation (MHE). If available, the soldier will be evaluated by a behavioral Health Officer (a psychiatrist, clinical psychologist, or mater's level clinical worker). If found unfit for duty, due to a mental health condition, the soldier may be processed for separation. If a MHCP is not available at the Med Det, the soldier may be referred to an Active Component Medical facility for mental health evaluation.
- b. Service members have legal rights against improper referrals for Mental Health Evaluations, as set forth in Pub. L. No. 102-484 (1992), Section 546 (reference (b)), DoDD 6490.1, and DoD Instruction 6490.4 (reference (d)), and additional rights when admitted to a treatment facility for an emergency or involuntary MHE, which must be followed.
- c. No person shall refer a member for a mental health evaluation as a reprisal for making or preparing lawful communication to a member of Congress, any appropriate authority in the chain of command of the member, an Inspector General (IG), or a member of a DOD audit, inspection, investigation, or law enforcement organization.
- d. No person shall restrict a servicemember from lawfully communicating with an IG, Attorney, Member of Congress, or others about the servicemember's referral for mental health evaluation.
- e. Violation of c & d annotated above by any person is subject to the UCMJ are punishable as a violation of Article 92, UCMJ, and violation by civilian employees are punishable under regulations governing civilian disciplinary or adverse actions.

f. Nothing in these procedures shall be construed to limit the authority of a commander to refer members for emergency mental health evaluation and/or treatment when circumstances suggest the need for such action.

Commander Responsibilities, Routine Referrals.

a. Establish a relationship with the Medical Officer (if available), the State Surgeon and the Medical Detachment Staff within the state.

b. Become familiar with the DoD Directive and DoD Instruction on Mental Health Evaluations and AR 40-501, Standards of Fitness.

c. Ensure that members are not referred for mental health evaluations as reprisal for whistle blowing.

d. Only commanders will consult with mental health professionals before referring members for mental health evaluations.

e. Follow the requirements for notification to the member before he/she attends the evaluation. This should be a written memorandum and should be personally signed and presented by the commander to the Soldier at **least one drill** for a routine referral. The notice shall, **at a minimum**, include the following:

(1) A brief factual description of the behaviors and/or verbal expressions that caused the commander to determine a mental health evaluation is necessary.

(2) The name or names of the mental health professionals with whom the commanding officer has consulted before making the referral. If such consultation is not possible, the notice shall include reasons why.

(3) The date, time and place the MHE is scheduled and the name and rank of the MHCP who will conduct the evaluation.

(4) The positions and telephone numbers of JAG, unit chaplain, and the IG, who can provide assistance to service members who wish to question the referral.

(5) The Soldiers non-waiverable rights as listed in paragraph 1.b of DOD Directive 6490.1.

(6) The name and signature of the commanding officer.

(7) The member's signature attesting to having received the notice described in subparagraphs 1.a. (1) through (5) of DOD Directive 6490.1. If the member refuses to sign the attestation, the commander shall so indicate on the notice.

Commanders Responsibilities, Emergency Referrals.

a. The commander's first priority will be to protect the Soldier and potential victims from harm. The commander will safely convey the Soldier to the nearest MHCP or, if unavailable, to a physician or the senior privileged non-physician provider present as soon as practical.

b. The commander will make every effort to consult an MHCP before referring or sending a Soldier for an emergency MHE. If, due to the nature of the emergency, this is not practical, the commander will forward a memorandum to the MHCP as soon as practical, documenting the circumstances and observations about the Soldier that led to the commander's decision to make the emergency referral.

c. The commander will then prepare a written memorandum for the Soldier and provide it to him/her as soon as practical. The memorandum will include, at a minimum, the same information required above in a routine referral.

d. The commander will initiate a Line of Duty Determination IAW AR 600-8-4, whenever a soldier is referred to a non-military medical treatment facility for evaluation and treatment.

Commanders who adhere to the requirements spelled out in DOD Directive 6490.1 and 6490.4 are less likely to have a complaint filed against them. The bottom line – if in doubt – contacts the local Inspector General or Staff Judge Advocate for advice and assistance in conducting a proper MHE referral.

Military Uniform Wear and Appearance

Reference: AR 670-1, Wear and Appearance of Army Uniforms and Insignia, 3 February 2005.

SME: Commanders and senior enlisted.

General Information:

a. Only uniforms, accessories, and insignia prescribed in this regulation or in the common tables of allowance (CTA), or as approved by HQDA will be worn by personnel in the U.S. Army. Unless specified in AR 670-1, the commander issuing the clothing and equipment will establish wear policies for organizational clothing and equipment. No item governed by this regulation will be altered in any way that changes the basic design or the intended concept of fit as described in TM 10-227 and AR 700-84, including plating, smoothing, or removing detail features of metal items, or otherwise altering the color or appearance.

b. In accordance with Chapter 45, Section 771, Title 10, United States Code; no person except a member of the U.S. Army may wear the uniform, or a distinctive part of the uniform of the U.S. Army, unless otherwise authorized by law. Additionally, no person except a member of the U.S. Army may wear a uniform, any part of which is similar to a distinctive part of the U.S. Army uniform. The following uniform items are distinctive and will not be sold to or worn by unauthorized personnel:

- (1) All Army headgear, when worn with insignia.
- (2) Badges and tabs (identification, marksmanship, combat, and special skill).
- (3) Uniform buttons (U.S. Army or Corps of Engineers).
- (4) Decorations, service medals, service and training ribbons, and other awards and their appurtenances.
- (5) Insignia of any design or color that the Army has adopted.

Individuals will remove all distinctive items before disposing of unserviceable uniform items.

c. Wear of Jewelry. No jewelry, watch chains, or similar items, to include pens pencils, will appear exposed on uniforms (other than those described in AR 670-1, paragraph 1-14a).

(1) Wrist items. The wearing of a wristwatch, wrist identification bracelet, and a total of two rings (wedding set is considered one ring) with Army uniforms, unless prohibited by the commander for safety or health reasons. Identification bracelets are limited to the following: medical alert bracelets, MIA, POW, KIA (black or silver in color only) bracelets. Soldiers may wear only one item on each wrist. The jewelry list stated here is the only jewelry that may appear exposed while wearing the uniform. A pen or pencil may appear exposed on the hospital

duty, food service, CVC, flight uniforms, and in the pen/pencil slots on the ACU coat. (There are no stipulations on the colors of pens/pencils worn in the slots.)

(2) Body piercing. When on any Army installation or other places under Army control, soldiers may not attach, affix, or display objects, articles, jewelry, or ornamentation to or through the skin while they are in uniform, in civilian clothes on duty, or in civilian clothes off duty (this includes earrings for male soldiers). The term skin is not confined to external skin, but includes the tongue, lips, inside the mouth, and other surfaces of the body not readily visible.

(3) Earrings. Female soldiers are authorized to wear prescribed earrings with the service, dress, and mess uniforms. The earrings may be screw-on, clip-on, or post-type earrings, in gold, silver, white pearl, or diamond. The earrings will not exceed 6mm or ¼ inch in diameter, and they must be unadorned and spherical. When worn, the earrings will fit snugly against the ear. Female soldiers may wear earrings only as a matched pair, with only one earring per ear lobe. Female soldiers are not authorized to wear earrings with any Class C (utility) uniform (BDU, hospital duty, food service, physical fitness, field, or organizational). When on duty in civilian attire, female soldiers must comply with the specifications listed above when wearing earrings. When females are off duty, there are no restrictions on the wear of earrings.

(4) Ankle bracelets, necklaces (other than those described in AR 670-1, paragraph 1-7b), faddish devices, medallions, amulets, and personal talismans or icons are not authorized for wear in any military uniform, or in civilian clothes on duty.

(5) Soldiers are prohibited from wearing wireless Bluetooth devices and non-wireless ear pieces while wearing Army uniforms, except while operating a commercial or military vehicle (to include a motorcycle or bicycle).

d. Wear of eyeglasses, sunglasses, and contact lens.

(1) Eyeglasses and sunglasses. Conservative civilian prescription eyeglasses are authorized for wear with all uniforms. Conservative prescription and nonprescription sunglasses are authorized for wear when in a garrison environment, except when in formation and while indoors. Individuals may be authorized to wear sunglasses for medical reasons. Eyeglasses or sunglasses that are trendy, or have lenses or frames with initials, designs, or other adornments are not authorized for wear. Soldiers may not wear lenses with extreme or trendy colors, which include but are not limited to, red, yellow, blue, purple, bright green, or orange. Lens colors must be traditional gray, brown, or dark green shades. Personnel will not wear lenses or frames that are so large or so small that they detract from the appearance of the uniform. Personnel will not attach chains, bands, or ribbons to eyeglasses. Eyeglass restraints are authorized only when required for safety purposes. Personnel will not hang eyeglasses or eyeglass cases on the uniform, and may not let glasses hang from eyeglass restraints down the front of the uniform. Tinted or colored contact lenses are not authorized for wear with the uniform. The only exception is for opaque lenses that are prescribed medically for eye injuries. Clear lenses that have designs on them that change the contour of the iris are not authorized for wear with the uniform. Soldiers are authorized to wear ballistic spectacle eye protection issued by the Army.

e. Tattoos. Tattoos or brands that are visible in Class A uniform (worn with slacks/trousers) are prohibited.

(1) Extremist tattoos or brands are those affiliated with, depicting, or symbolizing extremist philosophies, organizations, or activities. Extremist philosophies, organizations, and activities are those which advocate racial, gender or ethnic hatred or intolerance; advocate, create, or engage in illegal discrimination based on race, color, gender, ethnicity, religion, or national origin; or advocate violence or other unlawful means of depriving individual rights under the U.S. Constitution, Federal, or State law.

(2) Indecent tattoos or brands are those that are grossly offensive to modesty, decency, or propriety; shock the moral sense because of their vulgar, filthy, or disgusting nature or tendency to incite lustful thought; or tend reasonably to corrupt morals or incite libidinous thoughts.

(3) Sexist tattoos or brands are those that advocate a philosophy that degrades or demeans a person based on gender, but that may not meet the same definition of indecent.

(4) Racist tattoos or brands are those that advocate a philosophy that degrades or demeans a person based on race, ethnicity, or national origin.

(5) Existing tattoos or brands on the hands that are not extremist, indecent, sexist, or racist, but are visible in the Class A uniform (worn with slacks/trousers) are authorized for current soldiers only. This grandfather provision does not apply to soldiers enlisting as the effective date of this regulation.

(6) Soldiers may not cover tattoos or brands in order to comply with the tattoo policy.

(7) Commander's responsibility. Commanders will ensure soldiers understand the tattoo policy. For soldiers who are not in compliance, commanders may not order the removal of a tattoo or brand. However, the commander must counsel soldiers, and afford them the opportunity to seek medical advice about removal or alteration of the tattoo or brand. If soldiers are not in compliance with the policy, and refuse to remove or alter the tattoos or brands, commanders will:

(a) Ensure the soldier has been afforded the opportunity to seek medical advice about removal or alteration.

(b) Counsel the soldier in writing. The counseling form will state that the soldier's refusal to remove extremist indecent, sexist, or racist tattoos or brands anywhere on the body, or refusal to remove any type of tattoo or brand visible in the Class A uniform will result in discharge.

f. Hair and fingernail standards and grooming policies.

(1) Hair.

(a) The requirement for hair grooming standards is necessary to maintain uniformity within a military population. Many hairstyles are acceptable, as long as they are neat and conservative. It is not possible to address every acceptable hairstyle, or what constitutes eccentric or conservative grooming. Therefore, it is the responsibility of leaders at all levels to exercise good judgment in the enforcement of Army policy. All soldiers will comply with the hair, fingernail, and grooming policies while in any military uniform or while in civilian clothes on duty.

(b) Leaders will judge the appropriateness of a particular hairstyle by the appearance of headgear when worn. Headgear will fit snugly and comfortably, without distortion or excessive gaps. Hairstyles that do not allow soldiers to wear the headgear properly, or that interfere with the proper wear of the protective mask or other protective equipment, are prohibited.

(c) Extreme, eccentric, or trendy haircuts or hairstyles are not authorized. If soldiers use dyes, tints, or bleaches, they must choose those that result in natural hair colors (this means colors that may be natural to any race or ethnicity of humans, not of a specific race). Colors that detract from a professional military appearance are prohibited. Therefore, soldiers should avoid using colors that result in an extreme appearance. Applied hair colors that are prohibited include, but are not limited to, purple, blue, pink, green, orange, bright (fire-engine) red, and fluorescent or neon colors. It is the responsibility of leaders to use good judgment in determining if applied colors are acceptable, based upon the overall effect on soldiers' appearance.

(d) Soldiers who have a texture of hair that does not part naturally may cut a part into the hair. The part will be one straight line, not slanted or curved, and will fall in the areas where the soldier would normally part the hair. Soldiers will not cut designs into their hair or scalp.

(e) Male haircuts. The hair on top of the head must be neatly groomed. The length and bulk of the hair may not be excessive or present a ragged, unkempt, or extreme appearance. The hair must present a tapered appearance where the outline of the soldier's hair conforms to the shape of the head, curving inward to the natural termination point at the base of the neck. When the hair is combed, it will not fall over the ears or eyebrows, or touch the collar, except for the closely cut hair at the back of the neck. Males are not authorized to wear braids, cornrows, or dreadlocks while in uniform or in civilian clothes on duty.

(f) Female haircuts. Females will ensure their hair is neatly groomed, that the length and bulk of the hair are not excessive, and that the hair does not present a ragged, unkempt or extreme appearance. Trendy styles that result in shaved portions of the scalp or designs cut into the hair are prohibited. Females may wear braids and cornrows as long as the braided style is conservative, the braids and cornrows lie snugly on the head. Dreadlocks are prohibited in uniform or in civilian clothes on duty. Hair will not fall over the eyebrows or extend below the bottom edge of the collar at any time during normal activity or when standing in formation.

Long hair that falls naturally below the bottom edge of the collar, to include braids, will be neatly and inconspicuously fastened or pinned, no free-hanging hair is visible. This includes styles worn with the physical fitness uniform/improved physical fitness uniform.

(g) Cosmetics.

(1) Males are prohibited from wearing cosmetics, to include nail polish.

(2) Females are authorized to wear cosmetics with all uniforms, provided they are applied conservatively and in good taste and complement the uniform. Females' cosmetics must be conservative and complement the uniform and their complexion. Eccentric, exaggerated, or trendy cosmetic styles and colors, to include makeup designed to cover tattoos, are inappropriate with the uniform and are prohibited. Permanent makeup, such as eyebrow or eyeliner, is authorized as long as the makeup conforms to the standards outlined above. Females will not wear shades of lipstick and nail polish that distinctly contrast with their complexion, that detract from the uniform, or that are extreme. Some examples of extreme colors include, but are not limited to, purple, gold, blue, black, white, bright (fire-engine) red, khaki, camouflage colors, and fluorescent colors. Soldier will not apply designs to nails or apply two-tone or multi-tone colors to nails.

(3) Fingernails. All personnel will keep fingernails clean and neatly trimmed. Males will keep nails trimmed so as not to extend beyond the fingertip. Females will not exceed a nail length of ¼ inch, as measured from the tip of the finger. Females will trim nails shorter if the commander determines that the longer length detracts from the military image, presents a safety concern, or interferes with the performance of duties.

g. Wear and appearance of the Army Combat Uniform (ACU).

(1) Branch insignia will only be worn for Chaplains (pin on or black embroidery on the digitized fabric with hook and loop branch insignia).

(2) Embroidered badges will not be worn on the ACU.

(3) The black or foliage green Extended Cold Weather Clothing System (ECWCS) fleece can be worn as an outer garment with the ACU, Battle Dress Uniform, and Desert Battle Dress Uniform, unless otherwise directed by the commander. Soldiers are not authorized to modify the black ECWCS fleece to add hook and loop pads for the Last Nametape, U.S. Army, and rank insignia.

(4) Combat, special skill and identification badges are not authorized to be worn on the ACU in field or in deployed environments.

(5) The following insignias are not authorized to be worn on the ACU: blood types, combat life savers (CLS), medic, allergies, Arabic nametapes, no known drug allergies (NKDA), no known allergies (NKA), penicillin (PEN), etc.

(6) Black, tan, or green socks are authorized to be worn with the ACU.

(7) Boots with zippers or sneaker-type construction are not authorized to be worn with the ACU.

(8) The sleeve cuffs on the ACU coat are not authorized to be rolled inside the ACU coat. Sleeves will be worn down at all times.

(9) Soldiers will not starch the ACU under any circumstances. The use of starch, sizing, and any process that involves dry-cleaning or a steam press will adversely affect the treatments and durability of the uniform.

(10) Soldiers will not wear the ACU in off-post establishments that primarily sell alcohol. If the off-post establishment sells alcohol and food, Soldiers may not wear the ACU if their activities in the establishment center on drinking alcohol.

Non-judicial Punishment for Minor Offenses

References:

- a. Chapter 20 NMSA, New Mexico Military Code;
- b. UCMJ Article 15;
- c. Part V, Manual for Courts Martial;
- d. AR 27-10, Legal Services: Military Justice.

SME: Staff Judge Advocate, Commercial (505) 474-1322, DSN 867-8322

Introduction

a. Nature. Non-judicial Punishment is a disciplinary measure more serious than administrative corrective measures, but less serious than trial by court martial. Non-judicial Punishment allows commanders another means of maintaining good order and discipline in the military service.

b. Purpose. Non-judicial Punishment should be considered on an individual basis and is designed to address “minor offenses” as per AR 27-10. Commanders should consider the following: The nature of the offense, the record of the service member, the need for good order and discipline, and the effect of Non-judicial Punishment on the service member’s record. Once all of the evidence has been presented, the Commander determines guilt or innocence, and if guilty, imposes appropriate punishment.

c. Commander’s discretion. The decision to impose Non-judicial Punishment lies solely with the individual commander. No superior may direct a subordinate leader as to the action that subordinate leader should take regarding Non-judicial Punishment in any case.

d. Commander’s suspension authority. Commanders may consider suspending all or part of any punishment under Article 15, particularly in case of first offenders or when significant extenuating matters are present. In extenuating circumstances, a Letter of Reprimand (“LOR”) or Counseling Statement may be substituted for an Article 15.

Controlling Law

a. The New Mexico Code of Military Justice follows the United States Uniform Code of Military Justice and other military regulations, but only to the extent that they do not conflict with specific provisions of the New Mexico Code.

Authority to Impose Non-judicial Punishment

a. Non-judicial punishment authority is conferred upon all general, special or summary court-martial convening authorities, and upon company, battery and squadron commanders or equivalent

as to members of their command, as per Section 20-12-4, NMSA 1978. The term “commander” means a commissioned or warrant officer who, by virtue of that officer’s grade and assignment, exercises primary command authority over a military organization or prescribed territorial area, that under pertinent official directives, is recognized as a command. AR 27-10, para. 3-7(a)(1).

b. Article 15 authority cannot be delegated.

c. Article 15 authority can be limited by a superior commander totally or partially (e.g., over categories of personnel, offenses, or individual cases).

d. AR 27-10 permits an accused to “consult” with a JAG Officer about the nature of proposed Non-judicial Punishment; however, “consult” does not mean representation of the accused. A soldier generally has up to 48 hours to decide to accept Non-judicial Punishment. The commander may proceed with Article 15 proceedings immediately, however, if the soldier does not request the entire 48 hours to respond, as per AR 27-10, para 3-18.

e. The imposing Commander of the Article 15, or a successor in Command in special circumstances, may suspend, mitigate, remit or set aside punishment for appropriate reasons. Any part of a punishment may be suspended for a period of up to six months, after which it is automatically remitted unless it has been vacated due to subsequent misconduct within the six month period.

Types of Article 15

a. **Summarized** Article 15 (DA Form 2627-1). Appropriate where soldier is enlisted *and* punishment should not exceed 14 days extra duty, 14 days restriction, oral admonition or reprimand, or any combination thereof. Approved punishments also include reduction in rank, forfeiture, fines or correctional custody.

b. **Formal** Article 15 (DA Form 2627). Appropriate if soldier is an officer, **OR** Punishment (for any soldier) might exceed 14 days extra duty, 14 days restriction, oral admonition or reprimand, or any combination thereof. Approved punishments also include reduction in rank, forfeiture, fines or correctional custody.

c. **Unexcused Absence**. Appropriate for enlisted member absent from a unit training assembly, drill or annual training following a first offense in which a warning was documented. The punishment is limited to a reduction or suspended reduction of one grade. The soldier may not refuse Non-judicial Punishment or demand trial by court-martial but may submit matters in defense, extenuation or mitigation. The soldier, however, may request a hearing before the commander and may appeal the actual punishment imposed, as per Section 20-12-11, NMSA 1978. See also, Special Limitation on Punishment, as per Section 20-12-11 (B) (3) NMSA 1978, that restricts punishment to a reduction of one grade or a suspended reduction of one grade.

Appeals

a. Soldier has five calendar days to appeal the Non-judicial Punishment to the next superior commander through the commander who imposed the punishment.

b. Options of Superior Commander on appeal: Approve Punishment, Suspend, Mitigate, Remit, or Set Aside, dependent on facts and circumstances.

Maximum Punishment (AR 27-10, Table 3-1 w/modifications)

Punishment grade officers	Imposed by company officers	Imposed by field grade general officers	Imposed by field grade and or GCMCAs	Imposed by general officers
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A. Maximum punishment for enlisted members

Note. The maximum punishment imposable by any commander under summarized procedures will not exceed extra duty for 14 days, restriction for 14 days, oral reprimand, or any combination thereof.

Admonition/Reprimand AND	Yes		Yes
Extra Duties AND ¹	14 days		45 days
Restriction or	14 days		60 days
Correctional Custody ² (E-1 through E-3)	7 days		30 days
AND			
Reduction (E-1 thru E4)	One grade		One or more grades
(E5 through E9)	One grade		One grade ⁴
AND			
Forfeiture ³	7 days pay		1/2 of 1 month pay for 2 Months

B. Maximum punishment for commissioned and warrant officers

Admonition/Reprimand AND	Yes	Yes	Yes
Arrest in quarters or	No	No	30 days
Restriction AND	30 days	30 days	60 days
Forfeiture	No	No	1/2 of 1 mo pay for 2 mo

C. Computing monthly authorized forfeitures of pay under article 15, UCMJ

1. Upon enlisted persons

- (Monthly Basic Pay 3, 6) divided by 2 = Maximum forfeiture per month if imposed by major or above.
- (Monthly Basic Pay 3, 6) x7 divided by 30 = Maximum forfeiture per month if imposed by captain or below.

2. Upon commissioned and warrant officers when imposed by an officer with general court-martial jurisdiction or by a general officer in command. (Monthly Basic Pay 5) divided by 2 = Maximum authorized forfeiture per month.

Notes:

1 Combinations of extra duties and restriction cannot exceed the maximum allowed for extra duty.

2 Subject to limitations imposed by superior authority and presence of adequate facilities under AR 190-47. If punishment includes reduction to E-3 or below, reduction must be unsuspended.

3 Amount of forfeiture is computed at the reduced grade, even if suspended, if reduction is part of the punishment imposed. For Reserve Component (RC) Soldiers, use monthly basic pay for the grade and time in service of an Active Army (AA) Soldier. (See para 21-9.)

4 § 20-12-9 NMSA. Reductions in grade. In a sentence or approved non-judicial punishment which includes a reduction in enlisted grade or a suspended reduction in enlisted grade, the imposing authority need not have promotion authority to the grade from which the accused is reduced.

5 In the case of commissioned officers and warrant officers, admonitions and reprimands given as non-judicial punishment must be administered in writing para 5c(1), part V, MCM.

6 At the time punishment is imposed.

EXAMPLE

A. DA Form 2627 (Formal Article 15) - List as a violation of UCMJ and State Military Code as applicable.

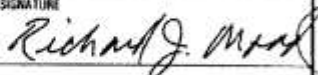
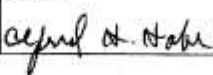
RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ			
For use of this form, see AR 27-10; the proponent agency is TJAG.			
See Notes on Reverse Before Completing Form			
NAME AGER, Robert L.	GRADE E4	SSN 000-10-0000	UNIT D Co, 1/5 Inf, Ft Blank, VA 00000
			PAY (Basic & Sea/Foreign) 1,695.60
<p>1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: ^{1/} In that you did, on or about 0600 hours, 21 Sep 05, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Formation, D Co, 1/5 Inf, in front of building 15. This is in violation of Article 86, UCMJ.</p> <p>2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (<i>matters of defense</i>) or why punishment should be very light (<i>matters of extenuation and mitigation</i>). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. ^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead. ^{3/} In deciding what you want to do you have the right to consult with legal counsel located at <u>Room 7, Building 10, Fort Blank, VA</u>. You now have 48 hours to decide what you want to do. ^{4/}</p>			
DATE 21 Sep 05	NAME, GRADE, AND ORGANIZATION OF COMMANDER JAMES A. SMITH, CPT, D Co, 1/5 Inf		SIGNATURE <i>James A. Smith</i>
<p>3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (<i>Initial appropriate blocks, date, and sign</i>)</p> <p>a. <input type="checkbox"/> I demand trial by court-martial.</p> <p>b. <input checked="" type="checkbox"/> I do not demand trial by court-martial and in the Article 15 proceedings:</p> <p>(1) I request the hearing be <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed. (2) A person to speak in my behalf <input type="checkbox"/> Is <input checked="" type="checkbox"/> Is not requested.</p> <p>(3) Matters in defense, mitigation, and/or extenuation: <input type="checkbox"/> Are not presented <input checked="" type="checkbox"/> Will be presented in person <input type="checkbox"/> Are attached.</p>			
DATE 23 Sep 05	NAME AND GRADE OF SERVICE MEMBER ROBERT L. AGER, SPC		SIGNATURE <i>Robert L. Ager</i>
<p>4. In an <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed hearing ^{5/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: ^{5/ 6/} Reduction to the grade of Private First Class, (E3), suspended, to be automatically remitted if not vacated before 23 Jan 06; and forfeiture of \$100.00 pay.</p> <p>[NOTE: Refer to Para 3-37b(1) prior to completing item 5]</p> <p>5. Unlawful use of force, assault, or other offense ^{7/}</p> <p>6. You are advised of your right to appeal to the _____ within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.</p>			
DATE 23 Sep 05	NAME, GRADE, AND ORGANIZATION OF COMMANDER JAMES A. SMITH, CPT, D Co, 1/5 Inf		SIGNATURE <i>James A. Smith</i>
<p>7. (<i>Initial appropriate block, date, and sign</i>)</p> <p>a. <input type="checkbox"/> I do not appeal b. <input checked="" type="checkbox"/> I appeal and do not submit additional matters ^{8/ 9/} c. <input type="checkbox"/> I appeal and submit additional matters ^{8/ 9/}</p>			
DATE 23 Sep 05	NAME AND GRADE OF SERVICE MEMBER ROBERT L. AGER, SPC		SIGNATURE <i>Robert L. Ager</i>
<p>8. I have considered the appeal and it is my opinion that: The proceedings were conducted in accordance with law and regulation and the punishments imposed were not unjust nor disproportionate to the offense committed.</p>			
DATE 27 Sep 05	NAME AND GRADE OF JUDGE ADVOCATE LEWIS H. RANE, MAJ		SIGNATURE <i>Lewis H. Rane</i>
<p>9. After consideration of all matters presented in appeal, the appeal is:</p> <p><input checked="" type="checkbox"/> Denied <input type="checkbox"/> Granted as follows: ^{10/}</p>			
DATE 30 SEP 05	NAME, GRADE, AND ORGANIZATION OF COMMANDER LYMAN Z. LIPE, LTC, 1/5 INF		SIGNATURE <i>Lyman Z. Lipe</i>
10. I have seen the action taken on my appeal.		DATE 30 Sep 05	SIGNATURE OF SERVICE MEMBER <i>Robert L. Ager</i>
<p>11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11/ 12/ 13/} "Paragraph 3-18(f)(1), AR 27-10 complied with." statement by SFC Jones, dated 22 Sep 05</p>			

DA FORM 2627, AUG 84

EDITION OF NOV 82 IS OBSOLETE

ORIGINAL
USAPPC V1.00

B. DA Form 2627-1 (Summarized Article 15) – List as a violation of UCMJ and State Military Code as applicable.

SUMMARIZED RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ			
For use of this form, see AR 27-10; the proper agency is TJAG.			
See Notes on Reverse Before Completing Form			
This form will be used only in cases involving enlisted personnel and then <i>ONLY</i> when no punishment <i>OTHER THAN</i> oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof has been imposed. ¹			
NAME HABE, ALFRED H.	GRADE E-3	SSN 111-11-1111	UNIT A Btry, 9/10th FA, 13th Inf Div, Fort Blank, VA 00000
1. On <u>23 June 2005</u> , the above service member was advised that I was considering imposition of nonjudicial punishment under the provisions of Article 15, UCMJ, Summarized Proceedings, for the following misconduct: ²			
On or about 0900 hours, 21 June 2005, you were absent without authority from A Btry, 9/10th FA, 13th Inf Div, located at Fort Blank, VA and remained so absent until on or about 0800 hours, 22 June 2005, in violation of Article 86, UCMJ.			
2. The member was advised that no statement was required, but that any statement made could be used against him or her in the proceeding or in a court-martial. The member was also informed of the right to demand trial by court-martial ² , the right to present matters in defense, extenuation and/or mitigation, that any matters presented would be considered by me before deciding whether to impose punishment, the type or amount of punishment, if imposed, and that no punishment would be imposed unless I was convinced beyond a reasonable doubt that the service member committed the misconduct. The service member was afforded the opportunity to take 24 hours to make a decision regarding these rights. No demand for trial by court-martial was made. After considering all matters presented, the following punishment was imposed: ³			
Oral reprimand and restriction for 14 days.			
3. The member was advised of the right to appeal to the <u>Cdr, 9/10th FA, 13th Inf Div</u> within 5 calendar days, that an appeal made after that time could be rejected as untimely, and that the punishment was effective immediately unless otherwise stated above. The member:			
<input checked="" type="checkbox"/> Elected immediately not to appeal <input type="checkbox"/> Requested time to decide whether to appeal and the decision is indicated in item 4, below. ⁴			
DATE 23 June 2005	NAME, GRADE, AND ORGANIZATION OF IMPOSING COMMANDER RICHARD J. MOAD, CPT, A BTRY, 9/10TH FA, 13TH INF DIV		SIGNATURE 
4. (Initial appropriate block, date, and sign)			
a. <input checked="" type="checkbox"/> I do not appeal b. <input type="checkbox"/> I appeal and do not submit matters for consideration ² c. <input type="checkbox"/> I appeal and submit additional matters ²			
DATE 23 June 2005	NAME AND GRADE OF SERVICE MEMBER ALFRED H. HABE, E-3		SIGNATURE 
5. After consideration of all matters presented in appeal, the appeal is:			
<input type="checkbox"/> Denied <input type="checkbox"/> Granted as follows: ⁵			
DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER		SIGNATURE
6. I have seen the action taken on my appeal.			
DATE		SIGNATURE OF SERVICE MEMBER	
7. ALLIED DOCUMENTS AND/OR COMMENTS <u>2 11 11</u>			

DA FORM 2627-1, AUG 84

EDITION OF NOV 82 IS OBSOLETE

USAPPE 11 01

Nonsupport of Family Members

References:

- a. AR 608-99, Family Support, Child Custody, and Paternity, 29 October 2003.
- b. AR 20-1, Inspector General Activities and Procedures, 01 February 2007.

SME: Staff Judge Advocate, Commanders, and Inspector General.

Department of the Army Policy.

a. Financial nonsupport of family members is an official matter of concern. **This is a command issue.**

b. Soldiers are required to manage their personal affairs in a manner that does not bring discredit upon himself or herself or the United States Army and the National Guard. This responsibility includes:

- (1) Providing adequate support for their family members.
- (2) Complying with all court orders.
- (3) Maintaining reasonable contact with family members to ensure that their financial needs and welfare do not become official matters of concern for the Army.
- (4) Conducting themselves in an honorable manner with regard to parental commitments and responsibilities.

c. Soldiers **must** provide child support and/or alimony under the following circumstances:

- (1) Court orders regarding child support, alimony, and paternity.
- (2) The financial support provisions of a written support agreement (i.e., separation agreements) in the absence of a court order.
- (3) If there is no court order or written agreement, a married soldier must comply with the minimum support provisions of AR 608-99, paragraph 2-6.

d. Paternity Inquiries.

(1) Soldiers will comply with the financial support provisions of court orders arising from paternity. In the absence of a court order identifying a soldier as the father of a child, a male soldier has no legal obligation under this regulation to provide financial support to a child alleged to have been born to him and the child's mother out of wedlock. If there is a court order

establishing paternity, but not directing financial support, the soldier will provide support as required by AR 608-99, paragraph 2–6.

e. Punitive provisions regarding financial support. Soldiers will not violate any of the following:

(1) The financial support provision of a court order.

(2) The financial support provision of a written financial support agreement in the absence of a court order.

(3) The financial support requirements of paragraph 2–6 in the absence of a written financial support agreement or a court order containing a financial support provision.

f. A soldier cannot fall into arrears without violating this regulation. Although the collection of arrearages, due to paragraphs (1) and (2) above may be enforced in court, there is no legal means to collect arrearages based on violations of subparagraph (3) above. Nevertheless, in all cases, soldiers should be encouraged, but not ordered, to pay arrearages. Additionally, a soldier who falls into arrears may be punished under the provisions of Article 92 UCMJ for failing to make the support payment required by subparagraph (1), (2), or (3) above at the time that the support obligation was originally due. Punishment in such instances is based on failure to provide financial support when due, not for failure to pay arrearages.

g. Minimum support is defined as an amount of money equal to BAH at the “with dependents rate” for which the soldier is eligible. However, a soldier’s entitlement or lack of entitlement to such allowances has no relationship to his/her obligation to provide support.

h. A soldier seeking to make payment by allotment must make payments by alternative means until the allotment takes affect. The following are means to which to pay support:

(1) Cash.

(2) Check.

(3) Money order.

(4) Electronic fund transfer.

(5) Voluntary allotment.

(6) Involuntary allotment.

(7) Garnishment (or wage assignment).

i. Unless otherwise required by a court order or by a written financial support agreement, a financial support payment made in cash, check, or money order will be personally delivered to

the individual, not later than the first day of the month following the month to which the financial support payment pertains. Soldiers making cash payments may have to prove that the payment was made and should obtain a receipt or other proof that the payments were made.

j. Unless otherwise required by a court order or by a written financial support agreement, a financial support payment by check or money order, not personally delivered in accordance with paragraph b above, will be deposited in first-class mail with proper postage affixed, addressed to the individual and postmarked not later than the first day of the month following the month to which the financial support payment pertains.

k. As an exception, a soldier may comply with the financial support requirements of paragraph 2–6 by directly paying non-Government housing expenses on behalf of family members if the family members are residing in non-Government housing. Non-Government housing expenses are limited to—

(1) Rent (including payments to a contractor-managed housing area).

(2) The principal and interest payments due on any outstanding loan secured by a mortgage on the non-Government housing and the real property taxes and property insurance due under an escrow agreement covering the same property.

(3) Essential utilities such as gas, electricity, and water.

Non-Government housing expenses do not include expenses described above for which the soldier is not legally responsible by reason of contract, lease, or loan agreement. Authorized expenses also do not include whether or the soldier is legally responsible for their payment.

All other financial support in kind, such as payments made relating to non-Government housing expenses not included in paragraph l., automobile loans and insurance, or charge accounts, made to others on behalf of supported family members requires the written approval of the supported family members in order to be credited as indicated in paragraph k.

Commander Responsibilities.

- a. Inform their soldiers of the DA policy on support of family members.
- b. Establish procedures to ensure compliance with AR 608-99.
- c. Process and respond to complaints of nonsupport in accordance with AR 608-99.
- d. Counsel soldiers when nonsupport complaints are brought against them.
- e. Respond to all official messages and correspondence concerning nonsupport claims.
- f. Conduct inquiries into allegations of nonsupport.

g. Take appropriate action against soldiers that fail to comply with AR 608-99 or lawful orders based on that regulation. Confer with the Staff Judge Advocate if there are any questions concerning “appropriate actions.” These actions include, but are not limited to, the following:

- (1) Denial of Re-enlistment.
- (2) Letter of Reprimand.
- (3) Administrative Separation.
- (4) Recoup BAQ.
- (5) Non-judicial punishment under Article 15, UCMJ.
- (6) Court-Martial.

Traditional Soldiers.

a. Upon activation in a Title 10 status Traditional National Guard Soldiers can be command directed to comply with the minimum support provisions of AR 608-99, paragraph 2-6.

b. The custodial parent of a traditional soldier’s child who is not receiving child support should contact the nearest Office of Child Support Enforcement. If there is no court order or written agreement a temporary order of support should be sought. The Staff Judge Advocate can advise, but not provide representation to, servicemembers and dependants pertaining to non-support of family members.

c. When in an IDT status a commander may direct a soldier to pay support through involuntary garnishment or allotment when court-ordered support payments are two months behind. Procedures for involuntary garnishment and allotment are found in Title 32, Part 54 and section 584.9.

d. Commanders should review AR 608-99 and consult with Staff Judge Advocate prior to initiating any involuntary garnishment or allotment.

e. Detailed instructions for Inspectors General assisting to ensure that commander’s actions meet the standard of AR 608-99 can be found in The Assistance and Investigations Guide I-3-13 through I-3-22.

OFFICIAL USE OF GOVERNMENT VEHICLES

References:

- a. AR 58-1, Management, Acquisition, and Use of Motor Vehicles.
- b. DoD 5500-7-R, Joint Ethics Regulation

SME: G-4 and SJA

Purpose. To summarize guidelines on the use of government transportation for official purposes.

Legal Foundations. Military personnel who willfully use or authorize the use of any U.S. Government-owned or -leased passenger motor vehicle (except for official purposes as authorized by 31 U.S.C. Section 1344) may be disciplined under provisions of the Uniform Code of Military Justice or other administrative procedures deemed appropriate.

a. Questions of official use must be resolved in favor of strict compliance with statute and regulation.

b. Determination of whether a specific use is for official purposes must include consideration of all pertinent factors, including whether the transportation is:

- (1) Essential to successful completion of a DOD function, activity, or operation.
- (2) Consistent with the purpose for which the vehicle was acquired.

c. Specific guidance includes the following:

(1) Official motor vehicle transportation requirements do not include: transportation to private social functions; personal errands or side trips for unofficial purposes; transportation of dependents or visitors without an accompanying official; or in support of non-DOD activities unless specifically approved under the provisions of Army Regulations (AR 58-1 paragraph 2-4b).

(2) Transportation may not be provided for reasons of rank, prestige, or personal convenience (AR 58-1 paragraph 2-4a).

(3) Army vehicles may not be used for transportation between home and work-place except in cases specifically approved by the Secretary of the Army (see AR 58-1, paragraph 4-3).

(4) When a non-tactical government owned vehicle is authorized for use while on TDY, the vehicle may be operated between places where the person's presence is required for official business, or between such places and temporary lodgings. In the absence of regularly scheduled public transportation, or its use is impractical, a vehicle may be operated between places of business or lodging and eating establishments, drugstores, barber shops, places of worship, and similar places required for the comfort or health of the member, and which foster the continued efficient performance of Army business. Using a government vehicle to travel to or from

commercial entertainment facilities (that is professional sports, concerts, and so forth) is not authorized (AR 58-1, paragraph 2-3i(3)).

(5) Transportation may be provided to support authorized activities that the commander has determined the failure to provide such service would have an adverse effect on morale of service members, family members and DOD civilians. This service will not be provided to the exclusion of mission needs and it will not be used to generate requirements for additional non-tactical vehicles (see AR 58-1 paragraph 2-3e).

(6) Transportation is authorized for military and civilian personnel officially participating in ceremonies, field demonstrations, and parades directly related to official activities (AR 58-1, paragraph 2-3a(1)).

(7) Transportation may be provided to support DOD family advocacy programs.

Physical Fitness Training and Testing

Reference:

- a. AR 350-1, Training in Units, 03 August 2007.
- b. AR 600-8-2, Suspension of Favorable Personnel Actions (FLAGs), 23 December 2004
- c. Memorandum for New Mexico Army National Guard Units and Activities,
- d. Subject: Army Physical Fitness Test (APFT) Policy (NMDMA Policy Log Number 2007-009) dated 1 November 2007.
- e. FM 21-20, Physical Fitness Training.
- f. AR 40-501, Standards of Medical Fitness.

SME: Command Sergeants Major.

Department of the Army Policy.

- a. Conditioning for combat readiness is the focus of all physical fitness training. Commanders must design unit programs to take the base level fitness defined by the Army Physical Fitness Test (APFT) and raise it to meet or exceed mission related physical performance requirements.
- b. The intent of the APFT is to provide a periodic assessment of a viable physical fitness program. The purpose of APFT is to give soldiers an incentive to stay in good physical condition and to allow commanders a means of assessing the general fitness levels of their units. The APFT will not form the foundation of unit or individual fitness program.
- c. Special fitness programs are described in FM 21-20, Chapter 1. Special programs are appropriate for soldiers who have difficulty meeting unit or Army standards. Such programs will not be punitive in nature but they must be designed to build up soldiers, not tear them down. Special fitness programs may be needed for soldiers who fail to meet Army APFT standards.

General Information.

- a. The physical fitness training policy applies Army-wide. It includes all Soldiers, functional branches, units, and operating agencies. Physical fitness training provides a foundation for combat readiness and must be an integral part of every Soldier's life. Unit readiness begins with the physical fitness of Soldiers and the NCOs and officers who lead them.

(1) Commanders or the senior military supervisors will establish physical fitness training programs consistent with FM 21-20 and unit missions. Exercise periods will be conducted with

sufficient intensity, frequency, and duration to maintain adequate cardio–respiratory endurance, muscular strength and endurance, flexibility, and body composition.

(2) Soldiers must meet the physical fitness standards (as measured during the Army physical fitness test (APFT) set forth in FM 21–20 and AR 350-1. Soldiers who are unable to meet these standards or the mission–related physical fitness standards required of their duty assignment may be subject to administrative action.

b. Personnel in the ARNG will take part in either collective or individual physical fitness training programs year round. For AGRs, units will conduct regularly scheduled (at least three to five times per week) physical fitness training during the unit’s normal duty day as determined by the commander. Commanders of ARNG units incorporate mission-focused physical fitness training into appropriate inactive duty training periods.

c. Commanders should consider conducting PT during hot periods of the day prior to deployment to facilitate acclimatization. It takes 8-14 days to acclimate to a hot, humid climate. When conducting PT in hot, humid environments trainers must adjust the intensity to fit the temperature and humidity and apply logical progression and ensure that soldiers drink enough water. Leaders must ensure this is done without undue risk to soldiers. During deployments units should plan for PT as mission and conditions permit. Post-deployment units should resume PT as soon as practicable and rational progress back to pre-deployment intensities over a period of 60-90 days.

d. Personnel will be excused from physical fitness training only during periods of temporary or permanent medical limitations established in accordance with AR 40–501.

e. Soldiers age 40 and over will be evaluated for coronary heart disease risk factors as part of their periodic physical examination. The medical procedures for the Cardiovascular Screening Program (CVSP) are outlined in AR 40–501. It is the Soldier’s responsibility to ensure that the CVSP is conducted as close to the 40th birthday as possible and as promptly as medical facilities permit. Soldiers age 55 and above have the option of taking the APFT with alternate aerobic activity, soldiers 55 and over are not to be considered profiled soldier unless a current profile exists. Soldiers age 60 and above have the option of not taking the APFT; however, must have a personal fitness program approved by a physician and must remain within the Army height weight standards.

f. Commanders may administer the APFT as often as they wish; however, they must specify beforehand when the results are for record. The AGRs will take the APFT at least twice each calendar year. A minimum of 4 months will separate record tests if only 2 record tests are given. The intent is for the AGR Soldiers to take a record APFT every 6 months. Mission requirements often prevent the even spacing of record tests. Therefore, commanders are encouraged to test Soldiers for record as close to the record test window as possible. Traditional IDT Soldiers will take the APFT once per year. A minimum of eight months will separate the tests. Personnel requiring a make-up test are exempt from the eight month rule.

g. All events in a record APFT must be completed in the same day. Units will conduct APFT events in the following order: push-ups, sit-ups, and two-mile run. To be considered a record test, these events must be completed within 2 hours from the start of the push-up event until completion of the 2-mile run or alternate aerobic event (see repetition and time guidelines in FM 21-20 and AR 350-1).

h. Soldiers will be weighed when they take the record APFT, or at least once every six month, according to procedures outlined in AR 600-9.

i. As soon as a Soldier has been determined to be pregnant by a physician, that Soldier is exempt from regular unit PT. The Soldier can participate in Special Population PT as long as it does not violate the Soldier's profile. A pregnant Soldier will not take the APFT, whether for record or diagnostic purposes, per AR 40-501. This same regulation outlines postpartum profiles for recovery.

j. Soldiers will not be flagged or barred for failing a diagnostic APFT.

k. Test OIC/NCOIC and scorekeepers must be vigilant for signs of injury or illness before and during the APFT. Soldiers should also take it upon themselves to inform the OIC/NCOIC of any illness or injury that could or did prevent successful completion of the APFT. When identified, the Soldier's APFT will be stopped and he/she will be immediately referred for medical evaluation. An APFT stopped for this reason becomes invalid. It will not be considered an APFT failure and does not warrant flagging action.

l. Soldiers in IET will be tested near the end of the course to qualify for completion of basic training, AIT, and OSUT.

m. Officer and warrant officer candidates in pre-commissioning training and commissioned and warrant officers in initial training courses, such as the officer basic course, will be tested at least once (near the end of their course) and must pass the test to graduate.

n. Record APFT scores will be annotated on a DA Form 705, APFT Scorecard. For Soldiers on a permanent profile or an extended temporary profile (more than 3 months), a record test must include an aerobic event. The only approved aerobic events are the 2-mile run, 800-yard swim, 6.2-mile bike ride (stationary or track), or the 2.5-mile walk. Soldiers on permanent profile or a temporary profile of long duration (more than 3 months) will receive point scores for only those events taken. For example, if a Soldier has a permanent profile for the 2-mile run event and score 70 points in the push-up, 85 points in the sit-up and receives a "GO" for the 2.5-mile walk, he will receive a score of 155 points in the total score column of the DA Form 705 (see FM 21-20 for APFT scoring).

o. Soldiers who fail a record APFT for the first time or fail to take a record APFT within the required period will be flagged in accordance with AR 600-8-2. In the event of a record test failure, commanders may allow Soldiers to retake the test as soon as the Soldier and the commander feel the Soldier is ready. Soldiers without a medical profile will be retested no later

than 90 days following the initial APFT failure. The RC Soldiers not on active duty and without a medical profile will be tested no later than 180 days following the initial APFT failure.

Commander Responsibilities.

a. Establish and conduct physical fitness programs consistent with regulations, NMDMA Policy Log Number 2007-009, and the unit's mission.

b. Become familiar with the principles, procedures, and guidelines in FM 21-20.

c. Inform the soldiers prior to testing that the APFT is for record purposes.

d. Establish special programs for soldiers that fail to meet Army and unit standards.

e. Flag soldiers that fail their first APFT or fail to take the APFT in the required period.

f. Initiate action (separation or bar-to-re-enlistment) against soldiers that are repetitive APFT failures.

g. Ensure only graders appointed on orders are signing the DA Form 705. Ensure APFT graders are on orders for one year, and that those appointed as graders have passed the APFT with a score of at least 240.

h. Ensure AGR and ADSW soldiers take the APFT with their assigned unit, not the organization they are assigned to for full-time duty.

Profiles

Reference:

- a. AR 40-501, Standards of Medical Fitness, 14 December 2007.
- b. AR 350-1, Army Training and Leadership Development.
- c. AR 600-60, Physical Performance Evaluation System.
- d. FM 21-20, Physical Fitness Training

SME: Medical Detachment

Department of the Army Policy.

a. Physical profiling is the Army's method of classifying a soldier's functional ability. Every soldier has a permanent profile. Soldiers receive their permanent physical profile at the time of enlistment, appointment or induction.

b. Temporary profiles are intended to allow soldiers to properly recover from illness or injury. Commanders must consult with medical personnel to determine what physical training and duty requirements the profiled soldier can perform. The intent of a profile is to assist the soldier in fully returning to duty in the fastest, safest manner possible. A profile does not constitute a blanket authority to miss PT or avoid normal duty.

General Information - Permanent Profile.

a. A physical profile is made up of six factors: physical capacity, upper extremities, lower extremities, hearing and ears, eyes, and psychiatric. The letters P-U-L-H-E-S represents these factors.

b. Each factor is rated on a scale of 1 to 4. These factors represent limits to classification or assignment.

- (1) 1 = no limitations.
- (2) 2 = possible limitations.
- (3) 3 = limitations required.
- (4) 4 = drastic limits to military duties.

c. A permanent change to a soldier's profile must be made by one of the following: physician, dentist, optometrist, podiatrist, or audiologist. Commanders of Army Medical Treatment Facilities (MTF) must designate individuals as profiling officers.

d. Designated profiling officers make changes to a soldier's profile using DA Form 3349, Physical Profile. The profiling officer indicates duty limitations in block 3. These limitations must be legible, specific, and in lay terms. In blocks 5, 6, 7, and 9 the profiling officer indicates what physical activities the soldier can perform.

e. A physical profile board (PPBD) reviews the decisions of profiling officer for the MTF commander. Once a PPBD rules on a profile, that decision is official. PPBDs review decisions in the following instances:

- (1) Permanent change of profile to or from a "3" or "4".
- (2) Return to duty after six months of hospitalization.
- (3) A profile rating of "2" that requires significant assignment limitations.
- (4) The MTF commander directs a review in controversial cases.
- (5) Upon request from the unit commander.

f. The commander or profiling officer will refer soldiers getting a new permanent "3" or "4" profile rating in one or more PULHES factors to a MOS/Medical Retention Board (MMRB) for evaluation. The MMRB determines if a soldier can perform their duties in a worldwide field environment. The MMRB recommends one of the following to the convening authority:

- (1) Retain the soldier in PMOS or specialty code. The soldier is returned to duty within the limits of the profile.
- (2) Reclassify the soldier. If the convening authority agrees, U.S. Personnel Command will evaluate the soldier for reclassification.
- (3) Probationary status. The MMRB will re-evaluate the soldier at the end of the period not to exceed six months.
- (4) Referral to the Army's physical disability system. In this instance, the MMRB determined that the soldier's condition prevents further duty in any MOS or specialty. The soldier's case is then sent to the Medical Evaluation Board (MEBD). This begins a process that will decide if the soldier is retained or separated from the service.

General Information - Temporary Profile.

- a. A soldier should perform his normal duties to the maximum extent permitted by the profile.

b. Physical Fitness Training leaders or Unit Commanders should provide an alternate aerobic activity for soldiers with profiles that prohibit running. FM 21-20, Chapter 2, provides alternate aerobic activities.

c. Temporary profiled soldiers do not take the APFT if their profile prohibits them from participating in any APFT event. Once the profile period ends, the soldier is authorized a recovery period twice the length of the profile (not more than 90 days) to prepare for an APFT. If a scheduled APFT occurs during the profile period, the soldier is given a mandatory APFT date. The mandatory APFT will be given to the soldier on the last day of the recovery period.

d. Soldiers with temporary profiles of three months or more may be administered the alternate APFT. Profiled soldiers are given three months to prepare for the alternate test. The alternate test is outlined in FM 21-20.

e. Profiling of soldiers is limited to physicians, dentists, podiatrists, audiologists, physical therapists, physician's assistants, nurse midwives, and nurse practitioners.

f. Physicians assistants, nurse midwives, and nurse practitioners may only award temporary profiles for a period of 30 days or less. A physician must confirm profiles longer than 30 days or extensions of profiles beyond 30 days, except for pregnancy.

Commander Responsibilities.

a. Ensure that all soldiers are utilized to the fullest extent possible within the limits of their profile.

b. Coordinate with health care personnel to maintain, monitor, and improve the health and physical abilities of assigned personnel.

c. Refer soldiers to a PPBD when their profile does not correctly reflect their functional ability.

d. Do not violate a soldier's profile or require a soldier to violate his profile.

Promotions - Enlisted

Reference: AR 600-8-19, Enlisted Promotions and Reductions, 20 March 2008.

SME: Military Personnel Office; Command Sergeants Major.

Department of the Army Policy. The purpose of the Army's Enlisted Promotion System is to fill authorized enlisted spaces with the best-qualified soldiers. It provides for career progression and rank that is in line with potential. It precludes promoting the soldier who is not productive or not best qualified, thus providing an equitable system for all soldiers.

General Information. There are numerous work tasks in the promotion process. Those procedures will not be discussed as they are all listed in detail in the promotions regulations. However, commanders should become familiar with the decentralized promotion criteria (PV2/SPC) specified in AR 600-8-19, Chapter 2, and the semi-centralized criteria (SGT/SFC), and centralized (MSG/SGM) as specified in Chapter 7. A thorough knowledge of Time in Service/Time in Grade and other requirements for each grade is necessary for commanders to make informed decisions relevant to their soldiers.

The following TIS/TIG requirements are general in nature:

a. Decentralized Advancements (PV2 SPC). Normal advancements to PV2, PFC and SPC with effective date the first day of eligibility, except for soldiers flagged or barred from reenlistment, will be executed automatically by Advancement Eligibility Roster. The commander must annotate on the Advancement Eligibility Roster by each name whether "yes" to advance or "no" to deny advancement. When the CDR denies promotion, he or she may promote the Soldier on the next automated Enlisted Advancement Report, provided the Soldier is otherwise qualified. Eligibility is as follows:

Rank	Requirement	Waiver
PV2	6 months TIS	4 months TIS
PFC	12 months TIS 4 months TIMIG	6 months TIS 2 months TIMIG
SPC	24 months TIG 6 months TIMIG	18 months TIS 3 months TIMIG

(1) A DA Form 4187 will not be prepared for soldiers who are automatically promoted.

(2) Soldier flagged or barred from reenlistment at the required time for automatic promotion and later recommended, require a DA Form 4187 to be promoted.

(3) Soldiers promoted prior to the automatic promotion date require submission of a DA Form 4187 requesting waiver of TIG/TIS to be promoted.

(4) Promotion to SPC requires MOSQ and availability of vacant E4 position. Position vacancy can be waived.

(5) Authority for promotion to PV2, PFC and SPC are company, troop, battery and separate detachment CDRs (including CDRs of provisional units organized per AR 220-2.) Active Army CDRs will promote soldiers serving on active duty during IADT.

b. Semi-centralized Promotions (SGT-SFC). Centralized Promotions (MSG-SGM)
Promotion to SGT, SSG and SFC are executed in a semi-centralized manner. Board appearance, promotion point calculation, promotion list maintenance, and the final execution of the promotions occur in the field in a decentralized manner. Promotion is based on unit vacancies filled by qualified soldiers in the following precedence: excess, MTOE changes, lateral, EPS list and Unit Vacancy Board once the EPS list is exhausted. Promotions to MSG and SGM are executed in a centralized manner. Promotion point calculation, promotion list maintenance, and the final execution of the promotions occur at the State Headquarters. Promotions are based on unit vacancies filled by qualified soldiers in the following manner: excess, MTOE changes, lateral appointments, and the EPS list when all other means are exhausted. Eligibility criteria for promotion is as follows:

Rank	Criteria
SGT	6 mo TIMIG
SSG	8 mo TIMIG
SFC	11 mo TIMIG 9 yrs TIS 6 yrs CES
MSG	12 MO TIMIG 13 yrs TIS 8 yrs CES
SGM	14 mo TIMIG 16 yrs TIS 10 yrs CES

(1) Soldier must be promoted in vacancy in CPMOS. Soldier must be fully qualified in MOS to include meeting school requirements.

(2) Promotion to SSG requires completion of WLC or higher NCOES.

(3) Promotion to SFC requires completion of all phases of BNCOC or higher NCOES.

(4) Promotion to MSG requires completion of all phases of ANCOC.

(5) Promotion to SGM requires notification of enrollment in USASMC by CNGB.

(6) Soldier must possess a current and passing APFT score.

(7) Soldier must be eligible for reenlistment with minimum one year of service commitment remaining for promotion to SGT and SSG, minimum of two years of service remaining for promotion to SFC.

(8) Can not be flagged in accordance with AR 600-8-2.

(9) Authority for promotion to SGT and SSG is a unit commander in the grade of LTC or above.

(10) Authority for promotion to SFC is a unit commander in the grade of COL or above.

(11) Authority for promotion to MSG and SGM is the Adjutant General.

c. The following are areas in which errors are commonly found:

(1) Counseling/mentoring. Both play an important role in the promotion process. Soldiers must know what is expected of them, told what to strive for, or what areas to improve in order to achieve promotion. Counseling should be directed towards those areas in which the soldier needs to improve to qualify for the next higher grade.

(2) Soldiers fully qualified for promotion consideration but not recommended must be counseled by their commander and allowed sufficient time to respond. Specific procedures to not recommend Soldiers are found in AR 600-8-19.

(3) Soldiers may be removed from a promotion list through either administrative removal or command initiated removal process, depending upon the reason. Procedures for removing for administrative reasons are found in AR 600-8-19, paragraph 7-43. Procedures for command-initiated removal are found in AR 600-8-19.

(3) Flagging Actions. Soldiers must be in a promotable status to be promoted. Often soldiers continue to remain flagged after the flagging action has been finalized. Commanders must ensure that flags are removed promptly when finalized.

(4) Promotion Boards. A common error found concerns appointment of board members. The promotion authority, not the president of the board, appoints board members. Additionally, soldiers not recommended for promotion or not attaining enough points to obtain list status must be counseled. Units must ensure that copies of these counseling are available at the MSC level.

(5) Ensure that Active Guard Reserve soldiers are counseled on the additional regulations and policy regarding promotion while in probationary period and Federal Active Service requirements for promotion.

New Mexico Army National Guard Policy. The following must be adhered to in order to provide Commander's with an up to date promotion list for their unit. Failure to meet these dates will result in soldiers being overlooked when position vacancies become available.

EPS Suspense Dates. The following are the suspense dates for EPS packets to be submitted to the G-1 for EPS consideration within the NMARNG. As a reminder the SGT and SSG packets will be boarded at the Battalion level and the SFC packets will be boarded at the MSC level. The MSG and SGM packets will be boarded at the State level.

For promotion to SGT: 1 March of every year

For promotion to SSG: 1 April of every year.

For promotion to SFC: 1 May of every year.

For promotion to MSG: 1 June of every year.

For promotion to SGM: 1 June of every year.

Commander Responsibilities.

- a. Ensure Battalion S1 personnel complete required administrative actions.
- b. Ensure soldiers not recommended and fully qualified receive counseling.
- c. Be thoroughly familiar with regulatory guidance on promotions.
- d. Ensure that EPS briefings are conducted at least semi-annually in each unit.
- e. Ensure that the EPS packets are submitted to the next higher headquarters in time to meet the suspense dates to the Board authority.

Promotions - Officers

References:

- a. NGR 600-100-Commissioned Officers – Federal Recognition and Related Personnel Actions Implementing Draft (NGB-ARH Policy Memo # 06-056)
- b. NGR 600-101- Warrant Officers – Federal Recognition and Related Personnel Actions Implementing Draft (NGB-ARH Policy Memo # 06-068)

SME: Military Personnel Office

The New Mexico Army National Guard's policy on Officer and Warrant Officer promotion system is designed to maintain the integrity of the promotion system by providing for fair and equitable advancement of officers and eliminate substandard or marginal officers as early as feasible. Provide a proper promotion flow through the various grades to ensure an energetic, highly motivated Army National Guard corps with a high retention rate of top-quality officers. Promotion criteria will be based on efficiency, time in grade, demonstrated command and staff ability, military and civilian education, and potential for service in the next higher grade. Promotion will not be used as a reward for past performance.

In the interim period the following stabilization and career guidance is in effect with regard to ALL officer management. This interim guidance applies to all officers regardless of status (traditional, AGR, deployed, FTNG, ADOS and ADSW).

1. Accession.

Soldiers entering Officer Candidate School will be required to have 90 creditable hours towards a Baccalaureate degree. They must have completed college and be awarded a Baccalaureate or equivalent in order to receive their commission.

2. Lieutenants.

- a. 2LTs will serve a minimum of 24 months as a Platoon Leader regardless of branch, specialty or degree status.
- b. Under no circumstances, effective this date, will an officer go to BOLC without first completing a degree.
- c. No Lieutenants will deploy without BOLC (phase I, II, III), as well as having completed a degree.
- d. No Lieutenants will attend specialty training (Ranger, Airborne, Air Assault, Pathfinder, etc) without having completed BOLC, OBC and have completed their degree.

- e. 2LTs will serve for 3 years before being considered for 1LT.
- f. 1LTs will serve a minimum of 2 years and 6 months before consideration for CPT. Promotion to CPT requires a degree, completion of BOLC and OBC.
- g. LTs should attend the Company Pre-Command Course.
- h. No officer will serve on ADSW, ADOS or FTNG duty without a degree. Exceptions to policy may be requested through existing policy to the G1 for approval by TAG.

3. Captains.

- a. Combat Arms, Combat Support and Combat Service Support branch specialties must command a company. Where there is no O3 level commands (example MSC officers) these officer must command as a MAJ.
- b. CPTs must complete the Captains Career Course.
- c. The Company Pre-Command Course is recommended prior to taking command.
- d. Captains will serve a minimum of 4 years, 6 months before being considered for promotion.
- e. CPTs shall have company command and primary staff assignments at MSC level prior to being considered for promotion.

4. Majors.

- a. Serve as S3, XO, SPO or Flight Operations Officer is required to be considered qualified and competitive for promotion.
- b. Completion of ILE is required prior to being considered for promotion to LTC.
- c. MAJ should have their Bn or Bde commanders approve their Master's degree plan and have started classes.
- d. Majors will serve a minimum of 4 years and 6 months before being considered for promotion to LTC.

5. Lieutenant Colonel.

- a. Serve as a Battalion Commander or JFHQ Staff Director is required to be considered for eligible for promotion to COL.
- b. Enrollment in a Senior Service College and completion of a Master's degree is encouraged.

c. LTCs will serve a minimum of 3 years prior to being considered for promotion to COL.

6. Promotion Criteria – Warrant Officers

a. Promotion will be based on DA MOS proponent certification, satisfactory completion or constructive credit of appropriate level of military education, time in grade, demonstrated technical and tactical competence and potential for service in the next higher grade as determined by the federal recognition board.

b. Promotion will be accomplished only when an appropriate MTOE or TDA position vacancy exists in the unit.

c. All warrant officers recommended for promotion must be fully qualified under the terms of AR 600-101. In addition, warrant officers in the grade of CW2 to CW5 must also possess those additional requirements of DA Pam 611-21 or other documents which stipulate a requirement to be qualified in an additional skill identifier (ASI).

d. Warrant officers may be promoted up to the grade of CW4 without regard to the standard of grades limitations shown in TOE/MTOE/TDA/TAADS documents.

e. For promotion to CW5, a warrant officer is required to be assigned to a MTOE/TDA duty position coded as a CW5. The total number of W5 assigned in any state/territory will not exceed the cumulative number authorized within that state/territory.

Minimum Time in Grade

W1 to W2	2 Years
W2 to W3	6 Years
W3 to W4	6 Years
W4 to W5	5 Years

Note: A warrant officer in the grade W2 or W3 assigned to a position rank coded higher than his or her current grade meets the minimum years of promotion service upon completing 4 years for W2 to W3 or 5 years for W3 to W4.

7. Military Education Requirements

W2 – Warrant Officer Basic Course (WOBC)

W3 – Completion of the ST 7000 Action Officer Course, 3 years TIG as W2 and warrant officer advance course.

W4 – 4 years TIG as a W3 and the warrant officer staff course

W5 – 4 years TIG as a W4, assigned to a W5 position, and the warrant officer senior staff course.

8. Federal Recognition Boards (FRBs) Federal Recognition Boards are not administrative boards. It is a three member board and is convened under the provisions of Title 32, United States Code (USC), and National Guard Regulation NGR 600-100 or NGR 600-101, to determine whether Army National Guard officers and warrant officers applying for federal recognition in the grades of colonel and below, meet physical, moral, and professional qualifications to perform the duties of the grade and position for which examined. The federal recognition board will consider the recommendations of Commanders but is not bound by the concurrence or non-concurrence in determining whether or not to promote the officer.

9. Commander Responsibilities.

- a. Be thoroughly familiar with regulatory guidance on promotions
 - b. Eligibility (minimum time in grade) does not mean consideration for promotion
 - c. Take a tough and critical stance. Screen promotion packets carefully, as if it were your own packet and promotion at stake. Leadership is tough and demanding – make sure the officer is ready.
 - d. Look closely at what you're signing and thereby approving for submission to the board.
 - e. Make officers submit their complete packet to you for review. Scrutinize and use it as a form of developmental counseling.
10. This interim guidance is designed to get us Beyond the Standard by ensuring we give leaders time to develop, mature and become effective senior leaders who will be able to continue our legacy and tradition of service to the State and Nation.

Recruit Sustainment Program

References:

- a. NGR 601-1, Chapter 6 Para 6-22
- b. NGB Pam 601-2 *The ARNG Recruit Sustainment Program (RSP)*
- c. S.E.A.R *Soldier Empowerment and Readiness Manuals*
- d. TRADOC REG 350-6 *Enlisted Initial Entry Training (IET) Policies and Administration*
- e. TRADOC PAM 600-4 *IET Handbook*

SME: R&R

General Information:

- a. All personnel involved with the RSP share the same goal. To ensure that all Warriors are properly received, integrated, trained, and MOS qualified prior to joining their units as a fully deployable asset. RSP Staff has the responsibility of ensuring Warriors are mentally prepared, administratively correct and physically fit for the rigors of IET.
- b. RSP has a responsibility to the Unit Commander to ensure that there is proper information flow related to each individual Warrior that is assigned to that unit and attached to the RSP.
- c. Unit Commanders have a responsibility to the Warrior to track individual progress and assign a sponsor during the battle hand off.
- d. RSP will work with Unit Readiness to minimize the number of RSP Warriors on NOVAL.
- e. MACOMs have a responsibility to the RSP to provide personnel and logistical support.
- f. Tools for tracking progress of Warriors in the training pipeline can be accessed through the RCMS Portal (<https://minuteman.ngb.army.mil>). Below is a listing of applications to request and how:

DSRO (Director's Strength Readiness Overview): View percentage of pipeline loss, total population in the training pipeline, BCT Ship Status, etc...

VULCAN (RSP): View information such as Soldier ship roster, excess IDT, 30 days no pay, and at risk reports

The above applications can be requested through the RCMS (minutemen) website (use your username and password for AKO to log into the website) under Administration

(on the left hand side of the page). Click on Request Permission, once you fill out the request you are on average granted access within 24 hours.

National Guard Policy (Excerpt from NGR 601-1 Chapter 6):

6-22. Recruit Sustainment Program

a. The ARNG Recruit Sustainment Program (RSP) integrates Non Prior Service Soldiers into a viable, productive training program that fosters the “handshake to DMOSQ” Strength Maintenance philosophy and increases the readiness of the ARNG. The program is mandatory and tailorable to the specific needs and structure of the state. The RRC owns the RSP and must fully utilize the SEAR Curriculum and the Vulcan database to meet the accreditation standards. The DSRO database provides further visibility on Training Pipeline successes. Each program focuses on developing Soldier skills through both hands-on and classroom instruction to prepare ARNG Soldiers for Basic Combat Training (BCT) and Advanced Individual Training (AIT). Integrated and interactive RRNCOs in the RSP promote lead generation from the RSP Soldiers as well as training of the ARNG recruits in lead prequalification skills.

b. Recruit Sustainment Program Tools:

(1) The RSP Operations Handbook provides states the tools needed to establish, operate, sustain, and strengthen an RSP. The handbook gives leaders the power to minimize Training Pipeline Losses (TPLs), create standardized operating procedures for RSPs, and ensure that RSP recruits excel throughout Initial Entry Training (IET).

(2) The SEAR program is the base academic portion of RSP and provides a structured program where trainees will learn basic information over a number of phases that have been configured to correspond to the phases of BCT. SEAR is a modular program comprised of Soldier testimonials, footage from BCT and other multimedia content. The training material provides recruits with a better understanding of their upcoming challenge, reduces fear of the unknown, and highlights moment of truth issues that must be resolved prior to arrival at BCT. SEAR is CD-based with PowerPoint presentations and a comprehensive training outline that can be used with any laptop or desktop computer and a projector. The CDs include the presentations, instructor lesson plans, and student handouts. The ARNG authorizes duplication of SEAR disks to meet local requirements. The lectures are frequently punctuated with discussions, exercises, activities, and video scenarios to keep students engaged and learning. States should augment the SEAR curriculum with recruiting/high-adventure activities, state and unit lineage and other training to further focus the RSP indoctrination process. SEAR consists of five training phases for easy integration into existing RSP programs.

a. Red Phase: The Soldier’s first RSP drill weekend begins with the Red Phase. During Red Phase, Soldiers are in-processed, integrated and provided instruction on Army Values, chain of command, rank structure, saluting, military time, phonetic alphabet, and more. Warriors receive their Battle Book and Challenge Coin during this drill. Red Phase is usually conducted monthly to inculcate new enlistments into the RSP.

(b) White Phase: This phase varies in length but covers the period between the first drill weekend and the final drill weekend before the Soldier ships to BCT. Many topics are covered, generally falling into three main categories: the training community, military history and background, and physical readiness. This phase should be supplemented by personalized state and unit level blocks of instruction.

(c) Blue Phase: This is the final drill before shipping and covers what the Soldier should expect both at Reception Battalion and BCT.

(d) Green Phase: This phase is for Soldiers who enlisted in the Split Training Option (STO) Program and have completed Phase 1 (BCT). Green Phase Warriors may serve as student leaders while they receive additional physical readiness, leadership and BCT refresher training in preparation for Phase 2 (AIT).

(e) Gold Phase/Battle Handoff: The Soldier's first drill after successful completion of IADT is their final weekend at the RSP. Gold Phase teaches Soldiers what to expect at their unit of assignment, as well as what will be expected from them. Most importantly, it provides the Battle Hand-off from the RSP to the Soldier's new unit/sponsor.

(4) VULCAN Database. VULCAN is a web-based RSP data management tool that allows the RSP to track and manage Soldiers, schedule and plan drills, manage RSP staff, track training and generate reports. User guides and training are available through the VULCAN website. This database is used by the RRC, RSP personnel, TRADOC Liaisons, IADT managers, MEPS Guidance counselors, and parent units of assignment (UOA)

Reenlistment

References.

- a. AR 601- 1, Army National Guard Strength Maintenance Program, 28 April 2006
- b. AR 600-8-2, Suspension of Favorable Personnel Actions (Flags), 30 October 1987.
- c. AR 635-200, Enlisted Personnel, 1 November 2000.
- d. NGR 600-200, Chapter 7, Extension, Immediate Reenlistment, Reenlistment, Bar to Extension, Immediate Reenlistment, Reenlistment,

SME: R&R, SCSM and G-1

Policy: The Department of the Army, National Guard Bureau (NGB), establishes the policies stated in this regulation. The Adjutants General of each State will develop and implement a Strength Management (SM) program in their States in accordance with this regulation to achieve their assigned end strength mission. (See Paragraph 2-2 and 2-3 for CNGB and State AG responsibilities).

Commander's Responsibilities.

- a. Develop and implement a comprehensive SM Plan in coordination with the Recruiting and Retention Command (RRC), using NGR 601-1, state regulations and local policies, to achieve established end strength goals. Establish subordinate unit attrition management goals and implement/assign attrition/retention goals in officer evaluation support forms, officer evaluation reports, and non-commissioned officer evaluation reports to ensure accountability of the goals to these leaders.
- b. Provide the personnel, administrative equipment, facilities and other resources required to support the RRC and the strength maintenance program.
- c. Conduct retention and attrition training using the full spectrum retention tools available through the RRC.
- d. Appoint an additional duty Unit Career Counselor to assist in SM-related matters.
- e. Ensure that all incoming Soldiers are assigned a sponsor.
- f. Ensure that every qualified Soldier is provided counseling on the opportunity for continued service in the ARNG or offered an alternative to separation or discharge.
- g. Ensure that interviews and counseling are conducted on time and to standard to uncover and overcome challenges or obstacles to retention and to determine career opportunities for their Soldiers.

h. Ensure that every Soldier is provided the opportunity to compete for position vacancies to enhance personal and professional growth.

i. Ensure that all Soldiers are made aware of available ARNG incentives and benefits and are processed for those for which they are eligible, and that a tracking system is implemented to ensure that their benefits are received.

j. Develop and implement rehabilitative programs for unsatisfactory participants who are qualified for continued service in the ARNG in order to encourage active participation.

k. Ensure that eligible Soldiers who are unable to continue their active participation are afforded the opportunity to transfer to the Inactive National Guard (ING) IAQ NGR 614-1.

l. Maintain contact with Inactive National Guard Soldiers for assimilation back into an active status within the unit.

m. Appoint an additional duty Employer Support Representative (ESR) Officer or NCO to handle Employer Support of the Guard and Reserve (ESGR) and Uniformed Services Employment and Reemployment Rights Act (USERRA) matters.

n. Use the Director's Strength Readiness Overview (DSRO) to maintain visibility of the unit's strength readiness posture. The DSRO program allows "pushing" of the data to subordinate commanders to ensure that the data is communicated down the chain of command. The data assists the leaders in identifying loss trends and Soldiers nearing ETS as well as opportunities for career counseling. Subscribe subordinate leaders to the "push" reports. The DSRO program and reports are available at www.arngdsro.com.

o. Maximize the use of StayGuard Survey Series focused at identifying those influencers affecting Soldiers and family members' decision to continue a career in the Army National Guard.

Qualification of a Soldier for Reenlistment.

a. Age (Non-waiverable).

(1) A soldier must be 18 years of age or older on the date of reenlistment and not more than 55 years old at the new ETS. Soldiers who will have completed 20 or more years of active Federal Service on their 55th birthday may be reenlisted or extended to complete 20 years' active Federal service provided they meet the below listed requirements.

(2) Soldiers who will not have completed 20 years of active Federal service on their 55th birthday may be reenlisted or extended to complete 20 years active Federal service provided they meet the below listed requirements: (a) The soldier is an enlisted soldier otherwise qualified for reenlistment, or is an Army commissioned or warrant officer released from active duty; (b) The soldier can complete 20 years active Federal service before his or her 60th birthday.

b. Citizenship (Non-waiverable). A soldier must meet one of the following criteria:

(1) The soldier is an enlisted soldier otherwise qualified for reenlistment, or is an Army commissioned or warrant officer released from active duty.

(2) Be a U.S Citizen or be an alien who has been lawfully admitted to the United States for permanent residence.

(3) Be an American Samoan National.

(4) Be a citizen of the Federal States of Micronesia (FSM), the Republic of Palau (ROP). By presidential proclamation and a joint resolution of Congress, these citizens are authorized and have a right to enlist and serve in the U.S. Armed Forces. Soldiers from these islands may reenlist without being required to become U.S. citizens.

c. Trainability (Non-waiver able).

(1) Initial term soldiers requesting reenlistment must possess and MOS and is extending for the same MOS.

(3) Aptitude areas scores will be used to determine reenlistment eligibility if planning an MOS change.

(4) Initial term soldiers who did not attain the aptitude score required above may be retested on the Armed Forces Classification Test (AFCT) under AR 611-5 and DA Pam 600-8.

d. Education (Non-waiverable).

(1) Soldiers must possess a GED, high school diploma, to be eligible for reenlistment. Soldiers must also meet all educational requirements of the specific option for which reenlisting.

(2) Special training qualifications may be determined from official transcripts, or by a statement signed by the soldier certifying that he or she has the specific school training or courses required.

e. Medical and Physical Fitness.

(1) Soldiers must meet the medical retention standards of AR 40-501, Chapter 3, or have been found physically qualified to perform in his or her PMOS, per AR 635-40. Soldiers who have been found qualified for retention by a PEB will not be denied reenlistment under this provision. Soldiers pending MMRB action per AR 600-60 will not be reenlisted until the MMRB action has been finalized; however, they may be extended for the minimum time necessary to complete the MMRB action.

(2) Soldiers must have passed their most recent APFT, within the nine-month period prior to date of reenlistment.

(a) Soldiers with permanent physical profiles, which prevent taking the APFT, are exempt from the requirements of (2) above.

(b) Soldiers with temporary physical profiles which preclude administration of an APFT, but who have passed an APFT within the preceding nine months to the date of awarding the profile, are eligible for reenlistment.

(c) Soldiers with temporary physical profiles who are not qualified for reenlistment under (b) above may be extended for not more than seven months to allow removal of the profile and administration of an APFT.

(d) Soldiers who do not meet the qualifications (2)(a), (b), or (c) above, and are unable to be administered an APFT through no fault of their own, may be granted waivers by the GCMCA or the first general officer in their chain of command.

f. Weight Control (Non-waiverable). Soldiers (except those in para (2) below) placed in the Weight Control Program, per AR 600-9, are not allowed to extend or reenlist unless they are in the Active Army, and—

(1) Have a temporary or permanent physical medical condition that precludes weight loss, are otherwise physically fit, and have performed their duties in a satisfactory manner

(2) Soldiers who are under medical care for pregnancy (birth of the child plus 7 months) and exceed the weight standards of AR 600-9.

g. Rank (Non-waiverable). A soldier may not exceed the retention control points as shown below, by more than 29 days before expiration of contracted service (reenlistment or extension. The Retention control points are as follows:

Retention Control Points	Total Active Service Years
PVT-PFC	3
CPL/SPC	10
CPL/SPC (P)	15
SGT	15
SGT (P)	20
SSG	22
SSG (P)	24
SFC	24
SFC (P)	26
1SG/MSG	26
1SG/MSG (P)	30
CSM/SGM	30

Relationships between Soldiers of Different Rank

References:

- a. AR 600-20, Army Command Policy, 7 June 2006.
- b. DA PAM 600-35, Relationships Between Soldiers of Different Rank, 21 February 2000.
- c. “NMDMA Policy Log Number 2008-04, The Adjutant General’s Policy Letter on Relationships of Different Rank/Fraternization, dated 8 April 2008.”

Commanders and Staff Judge Advocate

Department of the Army Policy.

Relationships between soldiers of different rank are prohibited if they—

- a. Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.
- b. Cause actual or perceived partiality or unfairness.
- c. Involve, or appear to involve, the improper use of rank or position for personal gain.
- d. Are, or are perceived to be, exploitative or coercive in nature.
- e. Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

General Information.

a. Custom acknowledges that leadership and obedience are founded in sincere, deeply held emotional bonds of military tradition. Leaders care for their soldiers, and soldiers hold professional military regard for their leaders. Building these emotional ties is a mark of good leadership. Neither leaders nor servicemembers ought to act in ways that undermine or jeopardize these important military relationships.

b. A relationship between two soldiers having a detrimental effect on the authority of the senior service member has generally been regarded as “fraternization.” Fraternization is chargeable as a violation of Article 134, UCMJ. The criminal offense of “fraternization” is different from a violation of the Army’s regulatory policy regarding relationships between soldiers of different rank.

c. Commanders have the responsibility to articulate what is improper personal conduct between military personnel of different ranks. If the commander becomes aware of a relationship that has the potential for creating an appearance of partiality or preferential

treatment, counseling the soldiers concerned is usually the most appropriate initial action. This also generally holds true for those relationships that involve the appearance of partiality and have had no adverse impact on discipline, authority, or morale.

d. Certain types of personal relationships between officers and enlisted personnel are prohibited. Prohibited relationships include—

(1) On-going business relationships between officers and enlisted personnel. This prohibition does not apply to landlord/tenant relationships or to one-time transactions such as the sale of an automobile or house, but does apply to borrowing or lending money, commercial solicitation, and any other type of on-going financial or business relationship. Business relationships that exist at the time this policy becomes effective, and that were authorized under previously existing rules and regulations, were exempt until March 1, 2000. In the case of Army National Guard or United States Army Reserve personnel, this prohibition does not apply to relationships that exist due to their civilian occupation or employment.

(2) Dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel. This prohibition does not apply to:

(a) Marriages. When evidence of fraternization between an officer and enlisted member prior to their marriage exists, their marriage does not preclude appropriate command action based on the prior fraternization. Commanders have a wide range of responses available including counseling, reprimand, order to cease, reassignment, administrative action or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is appropriate. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied.

(b) Situations in which a relationship that complies with this policy would move into non-compliance due to a change in status of one of the members (for instance, a case where two enlisted members are dating and one is subsequently commissioned or selected as a warrant officer). In relationships where one of the enlisted members has entered into a program intended to result in a change in their status from enlisted to officer, the couple must terminate the relationship permanently or marry within either one year of the actual start date of the program, before the change in status occurs, or within one year of the publication date of this regulation, whichever occurs later.

(c) Personal relationships outside of marriage between members of the National Guard or Army Reserve, when the relationship primarily exists due to civilian acquaintanceships, unless the individuals are on active duty for full-time National Guard duty. Personnel on Active Guard Reserve (AGR) are subject to UCMJ as active duty service members. Their relationship with traditional guardsmen who are not on duty status is still governed by Article 134, UCMJ at all times.

(d) Personal relationships outside of marriage between members of the Regular Army and members of the National Guard or Army Reserve when the relationship primarily exists due to civilian association and the Reserve component member is not on active duty.

e. Trainee and soldier relationships. Relationships between permanent party personnel and IET trainees not required by the training mission are prohibited. This prohibition applies to permanent party personnel without regard to the installation of assignment of the permanent party member or trainee.

f. Violations may be punished under Article 92, UCMJ.

Commander Responsibilities.

a. Commanders will counsel those involved or take other action, as appropriate, if relationships between soldiers of different rank:

(1) Cause actual or perceived partiality or unfairness.

(2) Involve the improper use of rank or position for personal gain.

(3) Create an actual or clearly predictable adverse impact on discipline, authority, or morale.

b. Commanders will brief all personnel on permanent party - student relationships semiannually.

Reprisals Against Whistleblowers

References:

- a. AR 20-1, Inspector General Procedures and Activities, 1 February 2007.
- b. DOD Directive 7050.06, Military Whistle-blower Protection, 23 July 2007.

SME: IG and SJA

Department of Defense Policy.

Department of Defense Policy.

a. Members of the Armed Forces shall be free to make a protected communication. A protected communication involves the reporting or disclosing of information in which the military member reasonably believes evidences:

(1) A violation of law or regulation; including a law/regulation prohibiting sexual harassment or unlawful discrimination;

(2) Gross mismanagement;

(3) A gross waste of funds or other resources;

(4) An abuse of authority; or

(5) A substantial and specific danger to public health or safety.

b. No person shall restrict a member of the Armed Forces from making lawful communications to:

(1) Member of Congress;

(2) An Inspector General (IG);

(3) A member of a DoD audit, inspection, investigation, or law enforcement organization;

(4) Any person or organization in the chain of command; or

(5) Any other person designated pursuant to regulations or other established administrative procedures to receive such communications.

c. Members of the Armed Forces shall be free from reprisal for making or preparing to make a protected communication.

d. No person may take or threaten to take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, in reprisal against any member of the Armed Forces for making or preparing to make a protected communication.

e. The Secretaries of the Military Departments shall issue general regulations making punishable under Article 92, Uniform Code of Military Justice (UCMJ), “Failure to Obey Order of Regulation,” any violation of the prohibitions of paragraphs (b) and (d) by persons subject to the UCMJ, Chapter 47 of title 10, United States Code (U.S.C.).

f. The Heads of the DoD Components shall ensure that any violations of the prohibitions of paragraphs (b) and (d) by civilian employees under their respective jurisdictions may constitute the basis of appropriate disciplinary action under regulations governing civilian employees.

g. No investigation is required when a member or former member of the Armed Forces submits a complaint of reprisal to authorized IG more than 60 days after the date that the member became aware of the personnel action that is the subject of the allegation. An authorized IG receiving a complaint of reprisal submitted more than 60 days after the member became aware of the personnel action at issue may, nevertheless, consider the complaint based on compelling reasons for the delay in submission or the strength of the evidence submitted.

Key Definitions to DoD 7050.06.

a. Reprisal is defined as taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making or preparing to make a protected disclosure.

b. Chain of Command. For the purposes of the DoD directive, chain of command includes not only the succession of commanding officers from a superior to a subordinate through which command is exercised, but also the succession of officers, enlisted members or civilian personnel through whom administrative control is exercised, including supervision and rating of performance.

c. Member of Congress. In addition to a Senator or Representative, or a member of a Senator’s or Representative’s staff or of a congressional committee, includes any Delegate or Resident Commissioner to the Congress.

d. Personnel action is defined as any action taken on a member of the Armed Forces that affects, or has the potential to affect, that military member’s current position or career. Such actions include a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards, or training; referral for mental health evaluations under DoD Directive 6490.1; and any other significant change in duties or responsibilities inconsistent with the military member’s grade.

e. A Whistleblower is defined as a member of the Armed Forces who makes or prepares to make a protected communication.

Commander Responsibilities.

Ensure complainants are protected from reprisal or retaliation for filing equal opportunity complaints. Should soldiers be threatened with such an act, or should an act of reprisal occur, they must report these circumstances to the Inspector General. If the allegation of reprisal is made known to any agency authorized to receive complaints; the agency should refer the complaint to the Inspector General. It is strongly encouraged to simultaneously report such threats or acts of reprisal to the appropriate chain of command.

Rights Warning Procedures

References:

- a. UCMJ, Article 31 (b). Compulsory Self-Incrimination Prohibited.
- b. AR 190-30 Military Police Investigations, (4-13) 1 November 2005
- c. DA Form 3881, Nov 1989 (Rights Warning Procedure/Waiver Certificate).
- d. DA Form 2823, Nov 2006 (Sworn Statement).

SME: SJA or Trial Defense Counsel

Example: Your supply sergeant has been seen unlawfully appropriating government property from the supply room then transporting it to an unknown location.

Question: When do you inform the soldier of his rights?

Answer: Commander and other soldiers are prohibited from interrogating or requesting a statement from a person who is suspected or accused of committing an offense without first providing the suspect/accused with a proper rights warning, especially if criminal wrongdoing or the UCMJ may be implicated.

UCMJ Requirements:

- a. No person may compel any person to incriminate himself/herself or to answer any question in which the answer may tend to incriminate him/her.
- b. No person subject to the UCMJ shall interrogate, or request any statement from an accused or a person suspected of an offense without first informing him/her of the nature of the accusation and advising him/her that he/she does not have to make any statement regarding the offense of which he/she is accused or suspected, and that any statement made by him/her may be used as evidence against him/her in a trial by court-martial.
- c. No person may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him/her.
- d. No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him/her in a trial by court-martial.

DA Form 3881 (Rights Warning Procedure/Waiver Certificate).

- a. A rights warning procedure/waiver certificate should be used when possible. Step by step instructions for completing this form are printed on the back.
- b. Commanders should always carry the DA Graphics Training Aid 19-6-6 (June 1991). This wallet size card contains the verbal rights warning to be read verbatim when the DA Form 3881 is not available.

Serious Incident Reports

References:

- a. AR 190-45, Law Enforcement Reporting, 30 March 2007.
- b. AR 190-40, Serious Incident Report
- c. NGB Memorandum for Joint Force Headquarters – Serious Incident Reporting, 9 March 2006.

SME: Safety Officer and EOC

Department of the Army Policy.

a. HQDA is concerned with incidents based on its severity, potential for adverse publicity, potential consequences of the incident, whether or not the incident is reportable under other reporting systems, and the effect of the incident on readiness or the perception of readiness of the U.S. Army.

b. Submission of a Serious Incident Report (SIR) will not be delayed due to incomplete information. Additional required information will be provided in a subsequent add-on report.

General Information. All SIRs go through the Director of Military Support, DOMS, for JFHQ-NM. They are then directly reported to NGB JOCC.

a. There are three types of SIR reporting formats:

- (1) SIR, original submission.
- (2) “Add-on” submitted to provide information not available at the time of the original report or when more pertinent information, such as results of autopsy, identification of subject, and so forth, is developed, or in response to a request for more information from HQDA.
- (3) “Correction” submitted at any time to correct an error in a previous report.

b. AR 190-45, paragraphs 8-2 and 8-3, and NGB Memorandum For Joint Force Headquarters, list **actual or alleged** incidents that require **immediate** reporting by the commander.

c. The following are some of the incidents or events that will be reported. Refer to the aforementioned references for a more comprehensive list and the appropriate category classification:

- (1) Accidents or incidents that result in death or critical injuries that could result in death.
- (2) Any accident, event, or incidents that could result in adverse publicity.

(3) Serious crimes (aggravated assault; kidnapping; rape; larceny exceeding \$10,000; murder or attempted murder).

(4) Lost or stolen weapons.

(5) Environmental accidents.

(6) Suicide or attempted suicide.

d. Written SIR response reporting time requirements are:

(1) Category I - NLT 12 Hours

(2) Category II - NLT 24 Hours

(3) Category III - NLT 48 Hours

Commander's Responsibilities.

b. Commanders will ensure that his subordinate leaders are aware of the urgency of reporting serious incidents immediately throughout the chain of command.

c. Commanders or his subordinates will not delay any SIRs in an attempt to collect more information concerning the incident.

Serious Incident Report

This format is used with every method of reporting. Do not omit paragraphs or subparagraphs. If information is not known at the time of reporting, enter "unknown" where appropriate.

Original Report

Subject: The SIR number. This number will always be a six-digit number. The first two-digits will contain the last two digits of the calendar year in which the report is being prepared. The last four digits, beginning with 0001, are the sequential number for reports submitted to HQDA that calendar year.

Paragraph:

1. **Category:** Indicate Category I or II or III.

2. **Type of incident:** Indicate type of offense or incident, such as: suicide, murder, or undetermined death." If multiple offenses are involved, list in order of most serious first. Do not add terms such as "suspected" or "alleged" or attempt to couch the incident in favorable terms.

3. Date and time: Enter date-time group when the incident occurred using local time. If exact time is unknown, enter “unknown” followed by a window of date-time groups in which the incident might have occurred.

4. Location: Enter specific type of structure, facility, or area and exact address or location where the incident occurred; for example, on-post, off-post, troop barracks, hospital ward, arms room, building number, open field, quarters address.

5. Other information:

a. Racial. Indicate by stating “yes” or “no” whether or not the incident was motivated in whole or in part by race. If racial, explain circumstances fully in paragraph 8, Remarks. If race or ethnic factors are suspected but not confirmed, report “yes”.

b. Trainee involvement. Indicate by stating “yes” or “no” whether or not incident involved a trainee or a student in the Army School System, as the victim. For such victim, indicate whether Active Army, ARNG, or USAR. Also, for ARNG or USAR victim, indicate initial active duty for training, annual training, or active duty for training status. Explain circumstances fully in paragraph 8, Remarks, if necessary.

6. Personnel involved: List data pertaining to subject and victim. If no identified subject and victim exist, state “none”. Do not list “U.S. Government” as victim.

a. Subject: (1) Name: (last, first, middle).

(a) Rank or grade: For military, enter proper abbreviation of rank; for civilian employee, enter category and grade, that is, “WG6, “GS11, or “GM14”; for other civilians, including family members, enter “civilian”).

(b) Social Security Number: Self-explanatory. For those who do not have an SS, for example, foreign nationals, state, “none”.

(c) Race: Use appropriate terms for AR 680-29, in other words, “white”, “black”, “American Indian”, and so forth.

(d) Sex. Self-explanatory.

(e) Age. Self-explanatory.

(f) Position. If military, enter duty assignment, if civilian, enter job title; if family member, enter relationship to sponsor, that is “family member-spouse.” For other civilians, enter occupation.

(g) Security clearance. Enter “Top Secret”, “Secret”, or “Confidential”, or “none”, as appropriate.

(h) Unit and station assignment: If military, enter the unit designation and address; if civilian employee, enter the organization name and address; if family member, enter the rank and name of servicemember followed by the home address; if other civilian, enter the home address.

(i) Duty status: If military, enter “on duty”, “leave” or “absent without leave (AWOL)”, as appropriate; for civilian employees, enter “on duty”, “off duty”, as appropriate. For other civilians, to include family members, enter “NA” (not applicable).

List additional subjects in consecutive paragraphs, such as, a(2), a(3) and so forth, and repeat all data elements in a (1)(a) through (i), above.

b. Victim:

- (1) Name: (last, first, middle).
- (a) Rank or grade
- (b) Social Security Number.
- (c) Race.
- (d) Sex.
- (e) Age.
- (f) Position.
- (g) Security Clearance.
- (h) Unit and Station Assignment.
- (i) Duty Status

List additional victims in consecutive paragraphs, such as, b(2), b(3), and so forth and repeat all data elements in b(1)(a) through (i), above. Note: identifying data is needed for subjects and victims only. Other persons related to the report such as witnesses or complainants can be included in paragraph 7 with brief descriptive data, such as, “LTC Tom smith, CDR, 1-66th INF BN, discovered.....”).

7. Summary of incident: Provide a brief, narrative summary of the incident. Tell the who, what, where, why, and how that is basic to law enforcement reporting. Include the information as estimated dollar loss, medical condition of victims, or disposition of offenders. Avoid jargon and trivial data that is not needed at HQDA level, such as, license numbers and colors of vehicles, or Military Police patrol designations. Do not include descriptions of subjects and victims provided in paragraph 6.

8. Remarks: Provide any additional information that helps explain the incident or comment on any impacts on the installation or actions taken because of the incident. Provide the corresponding military police report number and, if appropriate, the USACIDC report of investigation (ROI) number.

9. Publicity: Note the extent and type of news media coverage anticipated, that is, “national television coverage has occurred”, or “Local print media inquiries have been received”. This determination is best made by the Comment public affairs office.

10. Commander reporting: Enter rank and full name of reporting commander.

11. Point of contact: Enter rank, name, defense switched network (DSN) telephone number, and e-mail address of person to call for additional information.

12. Downgrading instruction: Provide downgrading instructions for classified report or removal date of FOUO markings, as appropriate.

Add on Report

Subject: Use the same number as the original SIR, followed by “add-on.”

Paragraph:

1. **Type of incident.** Repeat type of incident indicated on original SIR.
2. **Date and time.** Repeat date time group of incident shown in original SIR.
3. **Additional information.** Provide information that supplements or adds to that provided in the original SIR, or answers questions posed by higher headquarters. Repeat information only where necessary for clarity.
4. **Commander reporting.** Enter rank and full name of installation commander reporting.
5. **Point of contact.** Enter rank, name, and DSN telephone number of person to call for additional information.
6. **Downgrading of classified material.** Provide downgrading instructions for classified reports or the removal date of FOUO protective markings, as appropriate.

Correction Report

Subject: Use the same number as the original SIR followed by the word “correction.”

Paragraph:

1. **Type of incident.** Repeat type of incident shown in original SIR.
2. **Date and time.** Repeat date-time group of incident shown in original SIR.
3. **Correction.** Identify the erroneous data and give the correct information. If a correction is made to the SIR number, all reports following the correction report, if any, will refer to the SIR by the correct number.
4. **Commander reporting.** Self-explanatory.

5. **Point of contact.** Enter the rank, name, and DSN telephone number of person to call for additional information.

6. **Downgrading of classified material.** Provide downgrading instructions for classified reports or the removal date of FOUO protective markings, as appropriate.

EXAMPLE REPORTS

From: CDRUSATC FT Jackson SCWAHCP-PMW
TO: DA WASH DCWDAMO-ODL
armywatch@hqda-aoc.army.pentagon.mil
Info: CDRUSACIDC WASH DCWCIOP-SAW
CDRTRADOC Ft Monroe VAWATPLW
IMA Regional Office

Subj: SIR number 040002

1. Category 2.

2. Type of incident: Murder

3. Date/Time of Incident: 212000 Feb 04 (EST.)

4. Location: Subjects off post residence, 2508 Lisbon Lane, Columbia, SC 12334.

5. Other Information:

- a. Racial: No
- b. Trainee involvement: No

6. Personnel involved:

a. Subject

(1.) Name: Barkey, James Paul

- (a) Pay Grade: CW2
- (b) SSN: 123-45-6789
- (c) Race: White
- (d) Sex: Male
- (e) Age: 38
- (f) Position: Maintenance Officer
- (g) Security Clearance: Secret
- (h) Unit and Station of Assignment: HHC, USAG, Ft Jackson SC
- (i) Duty Status: Leave

(2) Name: Jensen, Joyce

- (a) Pay Grade: NAF 6
- (b) SSN: 733-45-8888
- (c) Race: Other
- (d) Sex: Female

(e) Age: Unknown
(f) Position: Cocktail Waitress
(g) Security Clearance: None
(h) Unit and Station of Assignment: Ft Jackson Officers' Club, DPCA, Ft Jackson, SC
(i) Duty Status: Off Duty

b. Victim

(1.) Name: Barkey, Mary Ann
(a) Pay Grade: Civilian
(b) SSN: 023-45-6780
(c) Race: American Indian
(d) Sex: Female
(e) Age: 33
(f) Position: Family Member-Spouse
(g) Security Clearance: None
(h) Unit and Station of Assignment: CW2 James P. Barkey, 2508 Lisbon Lane, Columbia, SC 12334
(i) Duty Status: NA

7. Summary of incident: CW2 Barkey and Jensen were seen by a neighbor entering CW2 Barkey's Residence at approximately 1945 hrs (est), 21 Feb 04. After hearing yelling followed by gunshots, the neighbor called police. Police arrived at approximately 2015 hrs (est), and found M. Barkey on the kitchen floor dead of apparent gunshots. CW2 Barkey and Jensen remain at large.

8. Remarks: Ft Jackson military police attempted to locate subject on-post at the request of local police. Military police report number is 00287-04-MPC053. CID ROI number is 0123-04-CID032-01234.

9. Publicity: Local print and electronic media coverage anticipated.

10. Commander Reporting: MG A. Smith, commanding, Ft Jackson, SC.

11. Point of contact: MSG Johnson, Ft Jackson PMO, DSN 821-2234,
tjohnson@jackson.army.mil

12. Downgrading Instructions: The FOUO protective markings may be removed on (date).

From: CDRUSATC FT Jackson SCWAHCP-PMW
TO: DA WASH DCWDAMO-ODL
armywatch@hqda-aoc.army.pentagon.mil
Info: CDRUSACIDC WASH DCWCIOP-SAW
CDRTRADOC Ft Monroe VAWATPLW
IMA Regional Office

Subj: SIR number 040002 add-on

1. Type of incident: murder

2. Date/Time of incident: 212000 Feb 04 est

3. Additional Information: CW2 Barkey and Jensen were arrested by civilian police at Jensen's residence at 1600 hrs (est), 21 Feb 04. A .38 caliber revolver, believed to be the murder weapon, was recovered from CW2 Barkey's vehicle. CW2 Barkey and Jensen remain in the Columbia county jail pending arraignment on 23 Feb 04. The preliminary results of the autopsy of M. Barkey indicate that she died of a gunshot to the front of her head, the manner of death was determined as murder.

4. Commander Reporting: MG A. Smith, Commanding, Ft Jackson, SC.

5. Point of Contact: MSG Johnson, Ft Jackson PMO, DSN 821-2234

6. Downgrading Instructions: FOUO protective markings may be removed on (date).

From: CDR Ft Jackson SC//AGCP-PM//
TO: DA WASH DC//DAMO-ODL//
armywtch@hqda-aoc.army.pentagon.mil
Info: CDRUSACIDC WASH DC//CIOP-SA//
CDRTRADOC Ft Monroe VA//ATPL//

Subj: SIR number 040002-correction

Type of incident: murder

Date/time of incident: 212000 Feb 04 est

Correction: The SIR number is incorrect. The correct number for this and two previous reports is 040003.

Commander reporting: MG A. Smith, commanding, Ft Jackson, SC.

Point of contract: MSG Johnson, Ft Jackson PMO, DSN 821-2234.

Downgrading instruction: FOUO protective markings may be removed on (date).

Sexual Assault Prevention and Response

References: AR 600-20, Army Command Policy

SME: Sexual Assault Response Coordinator (SARC), MSG Cecilia Chavez, NMNG, Unit Victim Advocate (UVA), Chaplin and Staff Judge Advocate

Department of the Army Policy.

a. Sexual assault is a criminal offense that has no place in the Army. It degrades mission readiness by devastating the Army's ability to work effectively as a team. Every Soldier who is aware of a sexual assault should immediately (within 24 hours) report incidents. Sexual assault is incompatible with Army values and is punishable under the Uniform Code of Military Justice (UCMJ) and other federal and local civilian laws.

b. The Army will use training, education, and awareness to minimize sexual assault; to promote the sensitive handling of victims of sexual assault; to offer victim assistance and counseling; to hold those who commit sexual assault offenses accountable; to provide confidential avenues for reporting, and to reinforce a commitment to Army values.

c. The Army will treat all victims of sexual assault with dignity, fairness, and respect.

d. The Army will treat every reported sexual assault incident seriously by following proper guidelines. The information and circumstances of the allegations will be disclosed on a need-to-know basis only.

e. This policy applies —

(1) Both on and off post and during duty and non-duty hours.

(2) To working, living, and recreational environments (including both on-and off-post housing).

General Information.

a. Sexual assault is a crime defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent. Sexual assault includes rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of victim. "Consent" will not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, or coercion or when the victim is asleep, incapacitated, or unconscious.

b. Sexual Assault Response Coordinators (SARC) and Unit Victim Advocates (UVA). Because of the sensitivity and complexity of working with sexual assault victims, the deployable SARC and UVA must be carefully selected. These Soldiers are likely to become involved in

highly charged, emotionally stressful situations in assisting victims of sexual assault. As a result, all candidates must be properly screened and complete training in responding appropriately to victims of sexual assault. Selection criteria can be found in AR 600-20, paragraph 8-6.

c. Training. The objective of Sexual Assault Prevention and Response training is to eliminate incidences of sexual assault through a comprehensive program that focuses on awareness and prevention, education, victim advocacy, reporting, response, and follow up. There are four categories of training for the Sexual Assault Prevention and Response Program. This includes professional military education (PME) training, unit level training, pre-deployment training, and responder training.

(1) Sexual assault training is conducted for all Soldiers attending the following PME courses: initial entry training, NCOES, officer courses, warrant officer courses, commissioning courses, and drill sergeant and recruiting courses.

(2) All Soldiers will attend and participate in unit level Sexual Assault Prevention and Response training annually. Training will be scenario based, using real life situations to demonstrate the entire cycle of reporting, response, and accountability procedures. Training should be inclusive of audience and group participation. Sexual Assault Prevention and Response Program training is not an extension of sexual harassment training. Trainers should clarify the differences between harassment and assault and identify those dynamics that are unique to sexual assault. Persons conducting training must use formal training packages on the Sexual Assault Prevention and Response Program.

(3) Pre-deployment training will incorporate information on sexual assault prevention and response. As part of pre-deployment training, Soldiers will be presented with information to increase awareness of the customs of the host country and any coalition partners, in an effort to help prevent further sexual assaults outside of CONUS.

(4) Commanders will ensure service members receive sexual assault prevention and response unit refresher training during post-deployment activities.

Unit Commanders Responsibility.

a. Take immediate steps to ensure the victim's physical safety, emotional security and medical treatment needs are met and that the SARC and appropriate law enforcement/criminal investigative service are notified.

b. Ensure that the victim or his/her representative consent in writing to the release of information to nonofficial parties about the incident, and that the victim's status and privacy are protected by limiting information to "need to know" personnel.

c. Ensure that victims of sexual assault receive sensitive care and support and are not re-victimized as a result of reporting the incident.

d. Collaborate closely with the SARC, legal, medical, and chaplain offices and other service providers to provide timely, coordinated, and appropriate responses to sexual assault issues and

concerns.

- e. Encourage the victim to get a medical examination no matter when the incident occurred.
- f. Report all incidents of sexual assault to CID in accordance with AR 195-1, Army Criminal Investigation Program, or to the proper local civilian authorities.
- g. Report sexual assaults to the SARC to ensure victims have access to appropriate assistance and care from the initial time of report to completion of all required treatment.
- h. Report all incidents of sexual assault to the office of the Staff Judge Advocate within 24 hours.
- i. Notify the chaplain if the victim desires pastoral counseling or assistance.
- j. Appoint on orders two UVAs per battalion level and equivalent units. Commanders will select qualified officers (CW2/1LT or higher), NCOs (SSG or higher), or DA civilian (GS-9 or higher) for duty as UVAs. The first colonel in the chain of command may approve appointing only one UVA for battalions whose small population may not warrant two UVAs.
- k. Appoint on orders one deployable SARC at each brigade/unit of action level and higher echelon (for example, division, corps, and Army component command). Since installation SARCs are civilians/contractors and do not deploy, the deployable SARC will perform all SARC duties in theater. Commanders will select qualified officers (MAJ/CW3 or higher), NCOs (SFC or higher), or DA civilians (GS-11 or higher) for duty as deployable SARC.
- l. Ensure deployable SARCs (brigade and higher) and UVAs have received required training prior to performing duties.
- m. Ensure deployable SARCs and UVAs deploy with assigned units.
- n. Ensure unit level Sexual Assault Prevention and Response Program training is conducted annually and documented on unit training schedules.
- o. Publish contact information of SARCs, installation victim advocates, and UVAs, and provide take-away information such as telephone numbers for unit and installation points of contact, booklets, and information on available victim services.
- p. Post written sexual assault policy statements and victim services resource chart on the unit bulletin boards. Statements must include an overview of the command's commitment to the Sexual Assault Prevention and Response Program; victim's rights; the definition of sexual assault; available resources to support victims; and specific statements that sexual assault is punishable under the UCMJ and other federal and local civilian laws and that sexual assault is incompatible with Army values.
- q. Ensure Soldiers receive pre-deployment and post deployment training related to the

prevention and response to sexual assault.

r. Include emphasis on sexual assault risks, prevention, and response at all holiday safety briefings.

s. For additional commander responsibilities see AR 600-20, paragraph 8-5o and Appendix G.

Sexual Harassment

Reference.

- a. AR 600-20, Army Command Policy, March 18, 2008 (*RAR 003, 4 April 2010).
- b. Sexual Harassment Prevention Policy (NMDMA Policy Log Number 2009-004), dated 1 October 2009.
- c. Equal Employment Opportunity Policy (NMDMA Policy Log Number 2009-003), dated 1 October 2009.
- d. Consideration of Others Policy (NMDMA Policy Log Number 2009-002, 1 October 2009).

SME: Equal Employment Opportunity Officer and Staff Judge Advocate

Department of the Army Policy.

a. The policy of the Army is that sexual harassment is unacceptable conduct and will not be tolerated. Army leadership at all levels will be committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Sexual harassment destroys teamwork and negatively affects combat readiness. The Army bases its success on mission accomplishment. Successful mission accomplishment can be achieved only in an environment free of sexual harassment for all personnel.

b. The prevention of sexual harassment is the responsibility of every Soldier and civilian. Leaders set the standard for Soldiers and civilians to follow.

General Information.

a. The biggest factor contributing to improper sexual treatment is the lack of understanding of what sexual harassment is. There isn't always a clear distinction between what is and what is not sexual harassment. Opinions vary between what actions are acceptable and what actions are prohibited.

b. Sexual harassment is a form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between the same or opposite genders when—

- (1) Submission to the authority or control of another or rejecting such conduct.
 - (a) Is stated or implied as a term or condition of a person's job, pay, or career.
 - (b) Is used as a basis for career or employment decisions affecting that person.

(2) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

c. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a Soldier or civilian employee is engaging in sexual harassment. Similarly, any Soldier or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is engaging in sexual harassment.

Commander Responsibilities.

a. The chain of command, whether military or civilian, has the primary responsibility for developing and sustaining a healthy EO climate.

b. Promote positive programs that enhance unit cohesion, esprit and morale.

c. Communicate matters with EO significance to unit personnel and higher headquarters.

d. Correct discriminatory practices by conducting rapid, objective and impartial inquiries to resolve complaints of discrimination.

e. Encourage the surfacing of problems and prevent reprisal for those who complain and take appropriate action against those who violate Army policy.

Actions All Leaders and Soldiers Can Take to Prevent Sexual Harassment.

a. Understand and be knowledgeable of what sexual harassment is.

b. Acknowledge that sexual harassment exists and educate yourself and your personnel to prevent it.

c. Report sexual harassment and treat each allegation of sexual harassment with the seriousness it deserves.

d. Don't tolerate sexual harassment and take action if you observe or hear it. Many problems can be alleviated if commanders and supervisors act on complaints in a timely, sensitive manner.

e. Realize that sexual harassment happens to both men and women.

Standards of Conduct

References:

- a. DOD Directive 5500.7-R, "Joint Ethics Regulation."
- b. AR 600-20, Army Command Policy.

SME: Staff Judge Advocate and Designated Agency Ethics Official ("DAEO")

Department of the Army Policy.

a. Government service or employment, as a public trust, requires soldiers and Army civilians to act with integrity and abide by the values of the Professional Army Ethic by placing loyalty to country, state, ethical principles and law above private gain and other interests.

b. Personnel will avoid any action that might result in or reasonably be expected to create the appearance of the following:

- (1) Using public office for private gain.
- (2) Giving preferential treatment to any person or entity.
- (3) Impeding Government efficiency or economy.
- (4) Losing independence or impartiality.
- (5) Making a Government decision outside official channels.
- (6) Adversely affecting the confidence of the public in the integrity of the Government.

General Information.

a. Government facilities, property, and work assistance will be used only for official Government business. This includes, but is not limited to, stationery, stenographic services, typing assistance, duplication, computer facilities, and chauffeur services.

b. DA Personnel may not participate, on behalf of the Government, in any matter involving an organization with which they are negotiating employment.

c. "Negotiating" includes any action by DA personnel that reasonably could be construed as an indication of interest in future employment. Examples include sending letters or resumes, making telephone inquiries, or failing to clearly reject a proposal from the entity's representative regarding future employment. It is not necessary that there be any firm offer of employment.

e. There are several statutory restrictions affecting retired officer employment or activities with Government contractors and other entities dealing with the Government, commercially or otherwise. Generally, there is no prohibition on the use of general professional knowledge acquired while on active duty in connection with employment. The applicability of the specific restrictions depends on the nature of former duties, the extent of former official involvement in activities/projects affecting the potential employer, and the nature of the proposed employment.

Commander Responsibilities.

a. Ensure that DA personnel avoid situations in which their integrity or that of the U.S. Government is placed in jeopardy.

b. Brief personnel on the values of the Professional Army Ethics through OPD/NCOPD.

c. Brief personnel on Army Values (Leadership).

d. Commanders at all levels will ensure that all Army personnel required to file either a public or confidential financial disclosure report, contracting officers, procurement officials, and others identified by an Army ethics counselor, receive face-to-face annual ethics training as prescribed by DoD 5500.7-R.

Weight Control Program

References.

- a. AR 600-9, The Army Weight Control Program, 27 November 2007.
- b. AR 600-8-2, Suspension of Favorable Actions, 23 December 2004.

SME: State Medical Detachment, Military Personnel Office

Department of the Army Policy.

a. Each soldier is responsible for meeting the standards in AR 600-9. Commanders and supervisors will monitor all members of their command to ensure that they maintain proper body weight, body composition, (body fat in relation to weight) and personal appearance. At minimum, personnel will be weighed when they take the APFT or at least every 6 months. Soldiers may be weighed immediately before or after they take the APFT. Personnel exceeding the screening table weight or identified by the commander or supervisor for a special evaluation will have a determination made of percent body fat. Identification and counseling of overweight personnel are required.

b. Excessive body fat indicates a lack of personal discipline, detracts from military appearance, and may indicate a poor state of health, fitness, or stamina. Self discipline to maintain proper weight distribution and high standards of appearance are essential to every soldier in the Army.

c. Soldiers will conform to the body fat standards in AR 600-9. Soldiers that exceed these body fat standards are considered overweight. Body fat composition will be determined for personnel--

(1) Whose body weight exceeds the Screening Table Weight in Table 3-1, AR 600-9.

(2) When the unit commander or supervisor determines that the individual's appearance suggests that body fat is excessive.

d. Routine weigh-ins will be accomplished at the unit level. Company or similar level commanders (or their designee) will accomplish percent body fat measurements in accordance with standard methods prescribed in AR 600-9, Appendix B. Individuals of the same gender will measure Soldiers. If this cannot be accomplished, a female Soldier will be present when males measure females. Active Army and Reserve Component Soldiers exceeding body fat standards in AR 600-9, Table 3-1 (determined to be over fat), will be provided exercise guidance, dietary information or weight reduction counseling by health care personnel, and assistance in behavioral modification, as appropriate, to help them attain the requirements of the Army. Soldiers not meeting body fat standards after 1 year from date of entry into the Active Army will be entered in the Army Weight Control Program (AWCP) and flagged under the provisions of AR 600-8-2 by the unit commander. Enrollment in a weight control program starts on the day

that the Soldier is informed by the unit commander that he/she has been entered in a weight control program. The weight reduction counseling may be accomplished prior to or shortly after entry into a program.

e. The required weight loss goal of 3 to 8 pounds per month is considered a safely attainable goal to enable Soldiers to lose excess body fat and meet the body fat standards described in paragraph 3–2e(1). Weigh-ins will be made by unit personnel monthly (or during unit assemblies for ARNG and USAR personnel) to measure progress. A body fat evaluation may also be done by unit personnel to assist in measuring progress. As an exception, an individual who has not made satisfactory progress after any two consecutive monthly weigh-ins may be referred by the commander or supervisor to health care personnel for evaluation or reevaluation. If health care personnel are unable to determine a medical reason for lack of weight loss—and if the individual is not in compliance with the body fat standards and still exceeds the screening table weight, the commander or supervisor will inform the individual that their progress is unsatisfactory and he/she is subject to separation. After a period of dieting and/or exercise for 6 months, Soldiers who have not made satisfactory progress and who still exceed the screening table and body fat standards will be processed as follows:

(1) If health care personnel determine that the condition is due to an underlying or associated disease process, action described in AR 600-9, paragraph 3–2d, will be taken.

(2) The unit commander will initiate a mandatory bar to reenlistment or administrative separation proceeding for Soldiers who do not make satisfactory progress in the AWCP after a 6-month period and for whom no medical reasons exist to cause the overweight condition.

f. Commanders and supervisors will remove individuals administratively from a weight control program as soon as the body fat standard is achieved.

g. If a soldier becomes overweight within 12 months of the date of removal from the AWCP and there is no underlying or associated disease process causing the condition, that soldier's commander will initiate separation proceedings against the soldier.

h. Soldiers who become overweight after the 12th month but within 36 months of removal from the AWCP get 90 days to meet the standards or become subject to separation proceedings.

i. Soldiers who meet body fat standards and become pregnant will be exempt from the standards for the duration of the pregnancy plus the period of convalescent leave after termination of pregnancy.

Commander Responsibilities.

a. Become familiar with AR 600-9.

b. Ensure that every soldier is weighed once every six months.

- c. Ensure that every soldier that exceeds his or her screening table weight (AR 600-9, Table 3-1) is taped to determine his or her body fat content.
- d. Flag soldiers entered in the AWCP in accordance with AR 600-8-2.
- e. Provide all soldiers with guidance and information on diet and exercise to control weight.
- f. Conduct monthly weigh-ins for soldiers in the AWCP. Body fat evaluations may also be done to assist in the measuring process.

APPENDIX A

USED FREQUENTLY USED WEBSITES

Department, Command, Agency, Organization Home Pages

Army: <http://www.army.mil>

Army Forces Command: <http://www.forscom.army.mil>

Army Knowledge Online (AKO): <https://www.us.army.mil>

Army Material Command (AMC): <http://www.amc.army.mil>

Army National Guard (ARNG): <http://www.arng.army.mil>

Defense Finance and Accounting Service (MyPay): <http://www.dfas.mil>

Department of the Army (DA): <http://www.hqda.army.mil>

Department of Defense (DOD): <http://www.defenselink.mil>

General Services Administration (GSA): <http://www.gsa.gov>

Guard Knowledge Online (GKO): <https://gko.ngb.army.mil>

Human Resource Command (HRC): <http://www.hrc.army.mil>

Occupational Safety and Health Administration (OSHA): <http://www.osha.gov>

Office of Personnel Management (OPM): <http://www.opm.gov>

New Mexico Guard Home Page: <https://ngnm-bdcsr01hq2/default.aspx>

New Mexico National Guard Public Website: <https://ngnm-inter2k>

Training and Doctrine Command (TRADOC): <http://www.tradoc.army.mil>

U.S. Army Combat Readiness/Safety Center: <https://crc.army.mil/home/>

U.S. Army Reserve (USAR): <http://www.armyreserve.army.mil>

Forms, Publications, Magazines

Army Doctrine and Training Digital Library: <http://www.adtdl.army.mil>

DOD Electronic Forms: <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>

FORSCOM Publications and Forms: <http://www.forscom.army.mil/pubs>

IRS Forms and Publications: <http://www.irs.ustreas.gov>

Soldiers Online-The Official Army Magazine: <http://www.army.mil/publications>

TRADOC Publications: <http://www-tradoc.monroe.army.mil/publica.htm>

U.S. Army Publications Agency (USAPA): <http://www.usapa.army.mil>

Family Support

DEERS E-Mail: <http://tricare.mil/DEERS/update-info.cfm> (E-mail changes to Defense Enrollment Eligibility Reporting System (DEERS))

Military Assistance Program: <http://dod.mil/mapsite>

TAPS (Tragedy Assistance Program for Survivors, Inc.): <http://taps.org>
(Grief support and services for survivors of military line-of-duty deaths.)

U.S. Army Community and Family Support Center Morale, Welfare, and Recreation (MWR):
<http://www.armymwr.com>

Personnel and Medical

Army Ribbons Order of Precedence: <http://www.tioh.hqda.pentagon.mil/awards/ribbon/OrderofPrecedence.htm>

Army Records Information Management System (ARIMS): <https://www.arims.army.mil/>

Army Reserve Component Retirement Services: <http://www.armyg1.army.mil/rso/pay.asp>

Military Retirement Calculator (Active Duty): <http://www.defenselink.mil/militarypay/retirement/calc>

Personnel Electronic Records Management System (iPERMS):

<https://statepermsompf.hoffman.army.mil/rms/login.jsp>

S-1 Net: <https://forums.bcks.army.mil/default.aspx?id=166639>

Army Medical Department (AMEDD): <http://www.armymedicine.army.mil>

Military Medical Support Office (MMSO): <http://www.tricare.mil/MMSO/>

TRICARE Info: <http://www.tricare.mil/>

Miscellaneous Websites

Army Training Requirements and Resources System: <https://www.atrrs.army.mil/>

Center for Army Lessons Learned (CALL): <http://call.army.mil/>

DoD Lodging: <http://www.armymwr.com/portal/travel/lodging/>

Federal Voting Assistance Program: <http://www.fvap.gov>

Veterans Affairs (VA): <http://www.va.gov>